No. 1004 SUPREME COURT. U. S.

MAY 1 1958

JOHN T. FEY, Clerk

JOINT APPENDIX.

UNITED STATES COURT OF APPEALS

SIXTH CIRCUIT

No. 13,116

NATIONAL LABOR RELATIONS BOARD, - Petitioner,

versus

KNIGHT MORLEY CORP., - - - Respondent.

ON PETITION FOR ENFORCEMENT OF AN ORDER OF THE NATIONAL LABOR RELATIONS BOARD.

WESTERFIELD-BONTE CO., INCORPORATED, LOUISVILLE, KY. 5-29-57-80

INDEX

	PAGE
Chronological List of Relevant Dockets Entries	1a
Reply to Motion to Correct Record and Motion to Correct Record	3a
General Counsel's Exhibit No. 1-A—Charge Against Employer	4a
General Counsel's Exhibit No. 1-C—Amended Charge Against Employer	8a
General Counsel's Exhibit No. 1-E—Complaint	12a
General Counsel's Exhibit No. 1-H—Answer	18a
General Counsel's Exhibit No. 1-M—Amended Complaint	20a
General Counsel's Exhibit No. 1-P—Answer to Amended Complaint	27a
General Counsel's Exhibit No. 2	30a
General Counsel's Exhibit No. 6	32a
General Counsel's Exhibit No. 7	37a
General Counsel's Exhibit No. 8	38a
General Counsel's Exhibit No. 9	39a
General Counsel's Exhibit No. 13-D	41a
General Counsel's Exhibit No. 14	43a
General Counsel's Exhibit No. 15	44a
General Counsel's Exhibit No. 18	45a
General Counsel's Exhibit No. 19	47a
General Counsel's Exhibit Nos. 24, 25, 26, 27	49a
General Counsel's Exhibit No. 29	55a
Respondent's Exhibit No. 1-A	56a
General Counsel's Exhibit No. 1-B	59a
Respondent's Exhibit No. 2	60a
Respondent's Exhibit Nos. 3, 12, 13	62a
Transcript of Testimony	73a

WITNESSES ON BEHALF OF GENERAL COUNSEL

Witness	Direct	Cross	Redirect	Recross
Charles E. Morley	74a			

Exhibits	For Identification	In Evidence
General Counsel's 7	86a	
General Counsel's 8	93a	
General Counsel's 9	102a	103a
General Counsel's 11	104a	105a
General Counsel's 12	104a	105a

Witness	Direct	Cross	Redirect	Recross
Norwood Beier	108a	116a	119a	123a
Lester Porrett	124a	130a		
Phillip M. Whittaker	132a	137a	138a	
Russell Simons	138a	143a		
John Curzydlo	147a		149a	
Clarence Kammer	150a	156a	160a	
Charles Wissell	162a	165a		
Alonzo J. Garlick	170a	177a	180a	182a
Harry Harsch	183a		195a	197a
			199a	200a
George Kelly	202a	216a		223a
Thaddeus Zembol	225a	228a		
Joe Muniz	233a	239a		
Betty Jean Elsholz	240a	241a		
Bernard J. Young	242a	256a		267a
Charles E. Morley (Recalled)			268a	
Dr. William Fredrick	272a	310a		
John Willing	322a	327a		
Herbert Fox	329a			
Francis V. Fasbender	332a	335a		
Edward Gierke	336a	339a		
Dorothy Cezik	340a			
Daniel Collins	340a	342a		
Jess Underwood	342a			

Exhibits	For Identification	In Evidence
General Counsel's 29.....	281a	286a

Witness	Direct	Cross	Redirect	Recross
Clarence Bantien.....	348a	351a		

WITNESSES ON BEHALF OF RESPONDENT

Witness	Direct	Cross	Redirect	Recross
Milford C. Bernia.....	353a	355a		
Charles E. Morley.....	357a			
Milford C. Bernia (Recalled).	771a	368a	370a	371a
Charles E. Morley (Recalled).	371a			
Milford C. Bernia (Recalled).			387a	393a
Charles E. Morley (Recalled).	395a			
Wilford T. Hicks.....	398a			

Exhibits	For Identification	In Evidence
Respondent's 3.....	359a	360a

Witness	Direct	Cross	Redirect	Recross
Charles E. Morley (Resumed).	400a	405a	425a	

	PAGE
Intermediate Report and Recommended Order.....	430a
Decision and Order.....	489a
Petition for Enforcement of an Order of the National Labor Relations Board.....	517a

CHRONOLOGICAL LIST OF RELEVANT DOCKET ENTRIES

In the Matter of

KNIGHT MORLEY CORPORATION

Case No. 7-CA-995

10.14.54	Charge filed by International Union, United Automobile, Aircraft & Agricultural Implement Workers of America (UAW-CIO) and its Local 1125, UAW-CIO (hereinafter called the Union)
12.11.53	Amended charge filed by the Union
5. 7.54	Complaint issued by the National Labor Relations Board
5. 7.54	Notice of hearing issued
5.13.54	Respondent's answer to complaint sworn to
6.16.54	Order rescheduling hearing issued
7. 8.54	Order rescheduling hearing issued
7.30.54	Amended complaint issued
7.30.54	Notice of change of place of hearing issued
8. 4.54	Answer to amended complaint sworn to
8.11.54	Hearing opened
8.18.54	Hearing closed
1.18.55	General Counsel's motion to correct record received
1.26.55	Respondent's reply to General Counsel's motion to correct record and motion to correct record
4.29.55	Intermediate Report and Recommended Order issued by Trial Examiner
4.29.55	Order transferring case to the Board issued
5.31.55	General Counsel's exceptions to the Intermediate Report received

Chronological List of Relevant Docket Entries

6. 6.55 Respondent's exceptions to the Intermediate Report received

6. 6.55 Respondent's request for oral argument received

6. 6.55 Union's exceptions to the Intermediate Report received

7.12.56 Decision and Order issued

UNITED STATES OF AMERICA

BEFORE THE

NATIONAL LABOR RELATIONS BOARD

In the Matter of Knight-Morley Corporation and International Union, United Automobile, Aircraft and Agricultural Implement Workers of America, UAW-CIO, and Local 1125, International Union, United Automobile, Aircraft and Agricultural Implement Workers of America, UAW-CIO	Case No. 7-CA-995

REPLY TO MOTION TO CORRECT RECORD AND MOTION TO CORRECT RECORD

Now comes Knight-Morley Corporation in reply to Motion to Correct Record filed by the General Counsel in the above entitled cause, and states as follows:

1. The correction suggested by the General Counsel at page 517, line 14, in the opinion of this counsel should be corrected to read:

> "fourteen thousand four hundred and thirty cubic feet per minute"

if it is to be corrected to the actual facts as evidenced by General Counsel's Exhibit No. 2. The notes of this counsel indicate that the statement was made of "seventeen thousand five hundred" at that point. This was in error as it does not conform to the actual record, General Counsel's Exhibit No. 2, page 43 of the Record.

* * * * * * *

GENERAL COUNSEL'S EXHIBIT No. 1-A

Form NLRB-501
(12-49)

Budget Bureau No. 64—R001.2.
Approval expires Nov. 30, 1950.

United States of America
NATIONAL LABOR RELATIONS BOARD

CHARGE AGAINST EMPLOYER

Important—Read Carefully	Do Not Write In This Space
Where a charge is filed by a labor organization, or an individual or group acting on its behalf, a complaint based upon such charge will not be issued unless the charging party and any national or international labor organization of which it is an affiliate or constituent unit have complied with section 9 (f) (g), and (h) of the National Labor Relations Act.	Case No. 7-CA-995
	Date Filed 10-14-53
Instructions: File an original and 4 copies of this charge with the NLRB regional director for the region in which the alleged unfair labor practice occurred or is occurring.	Compliance Status Checked By: JR

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT

Name of Employer	Number of Workers Employed
Knight Morley Corporation	Approx. 140
Address of Establishment (Street and number, city, zone, and State) 35375 Division Road, Richmond, Michigan	Nature of Employer's Business Mfg. & sale of automobile specialties, side view mirrors, venetian vents, etc.

The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1), (3) and (5) of the National Labor Relations Act, and these unfair labor practices are unfair labor practices affecting commerce within the meaning of the act.

2. **Basis of the Charge** (Be specific as to facts, names, addresses, plants involved, dates places, etc.)

In that said employer by its officers, agents and employees, has since, on or about July 28, 1953, refused to bargain in good faith with the undersigned certified collective bargaining agent of its employees in the following respect and in other respects, not herein specified:

General Counsel's Exhibit No. 1-A

1. By refusing to make definite proposals or counter proposals to the union's demands at negotiating meetings held on July 28, August 6 and August 12, 1953, after having served notice to termination of the collective bargaining agreement, which was due to expire on September 5, 1953;

2. By arbitrarily repudiating an agreement reached with the union for reinstatement of discharged employee, Andra Puente;

3. By refusing to put into effect a three cent annual improvement factor wage increase, which refusal was in plain violation of the collective bargaining agreement, as extended;

4. By refusing to arbitrate the discharge of certain employees in the buffing room upon timely and proper demand of the union, which refusal was in violation of the collective bargaining agreement, as extended;

5. By refusing to discuss grievances with the union unless the union agreed to exclude the local union president from the meeting as a union representative;

6. By imposing illegal and arbitrary conditions to meetings with the union such as agreeing to meet only for the purpose of discussing a single issue and no others;

7. By announcing prior to negotiating meetings that the company would not agree to any demands of the union which would be in excess of benefits received by its employees in 1951;

8. By announcing to the employees that beginning Monday, September 25, 1953, there would be no union in the plant;

9. By engaging in individual bargaining with its employees and by-passing the undersigned collective bargaining representative.

General Counsel's Exhibit No. 1-A

Said employer did further, on or about, Monday, August 31, 1953, discharge all its employees in the buffing room because of their activities on behalf of the undersigned labor organization in attempting to obtain correction of a faulty blower system.

Mrs. Evelyn Oswald
Mr. Roman Redlin
Mr. Wm. Teska
Miss Lorraine Hunger
Mrs. Gabriella Bruder
Mrs. Virginia McDonald
Mr. Richard Somes
Mrs. Ethel Chaltron
Mrs. Wanna Burns
Mrs. Leona Martindale
Mrs. Gladys Fenton
Miss Lily Paling
Mrs. Helga Anderson
Mrs. Violet Barber
Mr. Fred Barber
Miss Mary R. Collins
Mr. Walter Underwood
Mr. George Stragea
Mrs. Helen Bobcean
Mr. Francis Fasbender
Mrs. Dorothy Cezik
Mrs. Leona Ross
Mrs. Tillie Lyszczyk
Mr. Robert Siefert
Mr. Harold Chaltron
Mrs. Daisy Lynch
Mr. Thomas Pietrykowski
Mr. Walter Kaufman
Mrs. Jennie Bellhorn
Mr. Alonzo Garlick
Mr. Jess Underwood
Mr. Charles Wisswell
Mr. Clarence Bantien

Said employer has further engaged in flagrant violations of the Act by:

1. Physically assaulting the chief steward of the union who was engaged in lawful and peaceful picketing on public property outside the employer's plant on September 30, 1953;

2. Physically pushing women employees around in the plant as they were walking out of the plant to participate in a lawful strike called by the undersigned union, Wednesday, September 30, 1953;

3. Otherwise threatening and intimidating its employees engaged in peaceful picketing of its premises.

By these and other acts, said employer has interfered, restrained and coerced and is interfering, restraining and coercing its employees in the exercise of their rights guaranteed them in Section 7 of the National Labor Relations Act, as amended.

General Counsel's Exhibit No. 1-A

3. **Full Name of Labor Organization, Including Local Name and Number, or Person Filing Charge**

International Union, United Automobile, Aircraft & Agricultural Implement Workers of America (UAW-CIO) & its local 1125, UAW-CIO

4. **Address** (Street and number, city, zone, and State)

8000 E. Jefferson, Detroit, 14, Michigan

Telephone No.

Lo. 8-4000
Ext. 351

5. **Full Name of National or International Labor Organization of Which It Is an Affiliate or Constituent Unit** (To be filled in when charge is filed by a labor organization)

Congress of Industrial Organization

6. **Address of National or International, if any** (Street and number, city, zone, and State)

718 Jackson, N.W. Washington, D. C.

Telephone No.

Exec. 3-5581

7. DECLARATION

I declare that I have read the above charge and that the statements therein are true to the best of my knowledge and belief.

By Winston L. Livingston
(Signature of representative or person filing charge)

Winston L. Livingston
Associate General Counsel
(Title, if any)

October 12, 1953
(Date)

Willfully False Statements On This Charge Can Be Punished By Fine And Imprisonment (U. S. Code, Title 18, Section 80)

GENERAL COUNSEL'S EXHIBIT No. 1-C

Form NLRB-501
(4-52)

Form approved.
Budget Bureau No. 64-R001.4.

United States of America

NATIONAL LABOR RELATIONS BOARD

AMENDED CHARGE AGAINST EMPLOYER

Important—Read Carefully	Do Not Write In This Space
Where a charge is filed by a labor organization, or an individual or group acting on its behalf, a complaint based upon such charge will not be issued unless the charging party and any national or international labor organization of which it is an affiliate or constituent unit have complied with section 9 (f), (g), and (h) of the National Labor Relations Act.	Case No. 7-CA-995
	Date Filed 12-11-53
Instructions: File an original and 4 copies of this charge with the NLRB regional director for the region in which the alleged unfair labor practice occurred or is occurring.	Compliance Status Checked By: JR

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT

Name of Employer	Number of Workers Employed
Knight Morley Corporation	Approximately 140

Address of Establishment (Street and number, city, zone, and State)	Nature of Employer's Business (State whether manufacturing, mining, construction, transportation, communication, other public utility, wholesale or retail trade, service, etc., and give principal product or type of service rendered.)
35375 Division Road Richmond, Michigan	Mfg. and sale of automobile specialties, side view mirrors, venetian blinds, etc.

The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1), (3), and (5) of the National Labor Relations Act, and these unfair labor practices are unfair labor practices affecting commerce within the meaning of the act.

2. Basis of the Charge (Be specific as to facts, names, addresses, plants involved, dates, places, etc.)

In that said employer, by its officers, agents and employees, has since on or about July 28, 1953, refused to bargain in good faith with the undersigned certified collective bargaining agent of its employees by refusing to meet and negotiate, subsequent to the

termination of the collective bargaining agreement, on the subject of the discharge of certain employees in the buffing room and by imposing improper conditions to negotiating meetings with the union by insisting that the company will meet with the union only for the purpose of discussing a single issue and no others; and in other respects not herein specified, such as arbitrarily repudiating an agreement with the union to reinstate Andra Puente and refusing to grant a three-cent (3¢) annual improvement factor wage increase which the company had previously agreed to pay.

Said employer did further, on or about Monday, August 31, 1953, discharge all its employees in the buffing room because of their concerted activities in attempting to obtain correction of a faulty blower system. Said employees are:

H. Harsch	Zommassewski	A. Puente
E. Meyers	L. Burns	H. Schultz
E. Gierke	W. Eggert	J. Muniz
R. Simons	J. H. Willings	William Fistler
L. Porrett	L. Basnow	P. Whittaker
John Willings	D. McCue	W. Jackowski
N. Byers		

Said employer did further, on or about October 5, 1953, discharge the following named employees because of their membership in, and activity on behalf of, the undersigned labor organization:

Helga Anderson	Lawrence Evans	Wanna Burns
Lottie Garlick	Glen Dove	Lorraine Hunger
Lawrence Harrison	John Smith	Donna Waterloo
Veronica Essenburg	Wallace Teltow	Clara Henke
Clarence Bantien	Ethel Chaltron	Marvin Hulett
Dorothy Cezik	Harold Chaltron	Carlton Semos
Evah Oswald	Leona Ross	Lawrence Simmons
Lily Paling	Gladys Fenton	Ralph Dove
George Kelly	Andra Scribner	Robert Arnold
Frank O. Behmler	Herman Gunst	Thaddeus Zembol
Edmund Baumgarten	Anna Carpenter	Robert Seifert
George Stragea	Helen Przytakowski	Delores Balhorn
Thomas Pietrikowski	Robert J. Whitcombe	Chester Warner
Stella Kraatz	Irene Musial	Richard Somes

General Counsel's Exhibit No. 1-C

Daisy Martin	Helen Bobcean	Walter Kaufman
Roman Redlin	Francis Fasbender	William Teska
Harriett Sinda	Alfred Kammer	Glenn Basnow
Daisy Lynch	Blanche Russell	William Newton
John Curzydlot	Clarence Kammer	Wayne Fistler
Alonzo Garlick	Mildred Eldred	Charles Miller
Tillie Lysczeyk	Charles R. Wiswell	Gabriella Bruder
William Baumgarten	Sara Maher	Leona Martindale
Ted Zembol	Anna Machowski	Joseph Sulak
Herbert Fox	Hazen Bandlow	Betty Elsholz
Dan Collins	Violet Barber	Lawrence Harrison
Louise Dion	Emma Meyers	Elmer Gundlach
Eleanor Renner	Gladys Verscheure	Jess Underwood
Colleen Middleton	Virginia McDonald	Fred Barber
Jacqueline Jeffery	Dolores Collins	Joseph Doggendorf

John Doe, Richard Roe, and other employees similarly situated.

Said employer has further engaged in violations of the Act by threatening and intimidating its employees engaged in peaceful picketing of its premises.

By these and other acts, said employer has interfered with, coerced and restrained, and is interfering with, coercing and restraining its employees in the exercise of their rights guaranteed them in Section 7 of the National Labor Relations Act, as amended.

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3. **Full Name of Labor Organization, Including Local Name and Number, or Person Filing Charge**

International Union, United Automobile, Aircraft & Agricultural Implement Workers of America (UAW-CIO) and its Local 1125, UAW-CIO.

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4. **Address** (Street and number, city, zone, and State)

8000 E. Jefferson Avenue, Detroit 14, Michigan

Telephone No.

LOrain 8-4000, Ext. 351

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5. **Full Name of National or International Labor Organization of Which It Is an Affiliate or Constituent Unit** (To be filled in when charge is filed by a labor organization)

Congress of Industrial Organizations

General Counsel's Exhibit No. 1-C

6. **Address of National or International, if any** (Street and number, city, zone, and State)	**Telephone No.**
718 Jackson Place N.W., Washington 6, D. C.	Executive 3-5581

7. DECLARATION

I declare that I have read the above charge and that the statements therein are true to the best of my knowledge and belief.

Winston L. Livingston
(Signature of representative or person making charge)

Associate General Counsel
(Title, if any)

December 10, 1953
(Date)

Willfully False Statements On This Charge Can Be Punished By Fine And Imprisonment
(U. S. Code, Title 18, Section 80)

GENERAL COUNSEL'S EXHIBIT No. 1-E

COMPLAINT

Case No. 7-CA-995

It having been charged by International Union, United Automobile, Aircraft and Agricultural Implements Workers of America, UAW-CIO, and Local 1125, International Union, United Automobile, Aircraft and Agricultural Implement Workers of America, UAW-CIO, that Knight Morley Corporation, herein called Respondent, has engaged in and is now engaging in certain unfair labor practices affecting commerce as set forth in the National Labor Relations Act as amended, 61 Stat. 136, and as further amended, 65 Stat. 601, 602, herein referred to as the Act, the General Counsel of the National Labor Relations Board, herein called the Board, on behalf of the Board, by the Regional Director of the Seventh Region as agent for the Board and as designated by the Board's Rules and Regulations, Series 6 as amended, Section 102.15, issues this Complaint and alleges as follows:

I.

Respondent is now and at all times herein mentioned was a corporation organized and existing under the laws of the State of Michigan with its principal offices at Detroit, Michigan, and for many years and at all times herein mentioned it operated a manufacturing plant engaged in the production of automobile accessories at Richmond, Michigan.

II.

Respondent in the course and conduct of its business operations aforesaid during the 12-month period ending December 31, 1953 which period is representative of all times material hereto, purchased raw materials in excess of $100,000, of which approximately 50 per cent was shipped

in interstate commerce to Respondent's plant at Richmond, Michigan, from points outside the State of Michigan. During the same period above mentioned, the Respondent manufactured and sold finished products valued in excess of $200,000, of which not less than 25 per cent was shipped in interstate commerce from its aforesaid plant at Richmond, Michigan, to points outside the State of Michigan. During the same period above mentioned, the Respondent sold finished products valued in excess of $100,000 to customers in Michigan, each of whom, in turn, shipped goods outside the State of Michigan valued in excess of $25,000.

III.

Respondent has been at all times herein mentioned and is now engaged in commerce within the meaning of Section 2 (6) and (7) of the Act.

IV.

International Union, United Automobile, Aircraft and Agricultural Implement Workers of America, UAW-CIO, and Local 1125, International Union, United Automobile, Aircraft and Agricultural Implement Workers of America, UAW-CIO, herein jointly called the Union, are labor organizations within the meaning of Section 2 (5) of the Act.

V.

All production and maintenance employees of the Respondent at its plant in Richmond, Michigan, excluding office and clerical employees, chemists, watchmen, and supervisors constitute a unit appropriate for the purpose of collective bargaining within the meaning of Section 9 (b) of the Act.

General Counsel's Exhibit No. 1-E—Complaint

VI.

On or about April 12, 1950, in a secret election conducted under the supervision of the Regional Director for the Seventh Region of the Board, pursuant to a Decision and Direction of Election issued by the Board in Case No. 7-RC-758, a majority of the employees in the unit described in paragraph V above, designated and selected the Union as their representative for the purposes of collective bargaining, and on April 20, 1950, the Board, by the Regional Director for the Seventh Region certified the Union as the representative of the Respondent's employees in the unit set forth in paragraph V above for the purposes of collective bargaining.

VII.

At all times since April 20, 1950 the Union has been the representative for the purposes of collective bargaining designated by a majority of the employees in the unit set forth above in paragraph V and, by virtue of Section 9 (a) of the Act, has been and is now the exclusive representative of all the employees in said unit for the purposes of collective bargaining with respect to rates of pay, wages, hours of employment, grievances, labor disputes and conditions of work.

VIII.

On or about October 14, 1953 and October 29, 1953, and at various times thereafter, the Union requested Respondent to bargain collectively in respect to rates of pay, wages, hours of work, grievances, labor disputes and other conditions of employment as the exclusive representative of all employees of the Respondent in the unit described above in paragraph V.

General Counsel's Exhibit No. 1-E—Complaint

IX.

On or about October 14, 1953, October 29, 1953, and at all times thereafter, continuing to the date hereof, Respondent refused and continues to refuse to bargain with the Union as the exclusive representative of all the employees in the unit described above in paragraph V.

X.

By the acts described in paragraph IX, Respondent engaged in and is engaging in unfair labor practices within the meaning of Section 8 (a) (5) of the Act.

XI.

On or about September 30, 1953, the employees of the Respondent named in Appendix A attached hereto, ceased work concertedly and went on strike.

XII.

The strike referred to above in paragraph XI was prolonged by the unfair labor practices of Respondent described in paragraph IX above and paragraph XIII below.

XIII.

On or about October 5, 1953 the Respondent discharged the strikers named in Appendix A hereto attached because of their going out on strike and their refusal to abandon the strike and return to work, and at all times since October 5, 1953 Respondent has failed and refused to reinstate or reemploy said employees.

XIV.

By the acts described above in paragraph XIII, Respondent discriminated and is discriminating in regard to the hire and tenure of employment of the employees named in Appendix A thereby discouraging membership in the Union, and Respondent thereby did engage in and is en-

gaging in unfair labor practices within the meaning of Section 8 (a) (3) of the Act.

XV.

Respondent by the acts described in paragraph IX through XIV inclusive, and by each of said acts, did interfere with, restrain and coerce and is interfering with, restraining and coercing its employees in the exercise of the rights guaranteed in Section 7 of the Act, and thereby did engage in and is engaging in unfair labor practices within the meaning of Section 8 (a) (1) of the Act.

XVI.

The activities of Respondent as set forth in paragraph IX through XV inclusive, occurring in connection with the operations of the Respondent described in paragraphs I through III above have a close, intimate and substantial relation to trade, traffic and commerce among the several states and tend to lead to labor disputes, burdening and obstructing commerce and the free flow of commerce.

XVII.

The acts of the Respondent described above constitute unfair labor practices affecting commerce within the meaning of Section 8 (a) (1) (3) and (5) and Section 2 (6) and (7) of the Act.

Wherefore, on this 7th day of May, 1954, the General Counsel of the National Labor Relations Board, on behalf of the Board, has caused the Regional Director for the Seventh Region to issue this Complaint against Knight Morley Corporation, Respondent herein.

(s) Harry N. Casselman,
Regional Director,
National Labor Relations Board.
Seventh Region.

(Seal)

General Counsel's Exhibit No. 1-E—Complaint

APPENDIX A

Helga Anderson	Lawrence Evans	Wanna Burns
Lottie Garlick	Glen Dove	Lorraine Hunger
Lawrence Harrison	John Smith	Donna Waterloo
Veronica Essenburg	Wallace Teltow	Clara Henke
Clarence Bantien	Ethel Chaltron	Marvin Hulett
Dorothy Cezik	Harold Chaltron	Carlton Semos
Evah Oswald	Leona Ross	Lawrence Simmons
Lily Paling	Gladys Fenton	Ralph Dove
George Kelly	Andra Scribner	Robert Arnold
Frank O. Behmler	Herman Gunst	Thaddeus Zembol
Edmund Baumgarten	Anna Carpenter	Robert Seifert
George Stragea	Helen Przytakowski	Delores Balhorn
Thomas Pietrikowski	Robert J. Whitcombe	Chester Warner
Stella Kraatz	Irene Musial	Richard Somes
Daisy Martin	Helen Bobcean	Walter Kaufman
Roman Redlin	Francis Fasbender	William Teska
Harriett Sinda	Alfred Kammer	Glenn Basnow
Daisy Lynch	Blanche Russell	William Newton
John Curzydlot	Clarence Kammer	Wayne Fistler
Alonzo Garlick	Mildred Eldred	Charles Miller
Tillie Lysczcyk	Charles R. Wiswell	Gabriella Bruder
William Baumgarten	Sara Maher	Leona Martindale
Ted Zembol	Anna Machowski	Joseph Sulak
Herbert Fox	Hazen Bandlow	Betty Elsholz
Dan Collins	Violet Barber	Lawrence Harrison
Louise Dion	Emma Meyers	Elmer Gundlach
Eleanor Renner	Gladys Verscheure	Jess Underwood
Colleen Middleton	Virginia McDonald	Fred Barber
Jacqueline Jeffery	Dolores Collins	Joseph Doggendorf

GENERAL COUNSEL'S EXHIBIT No. 1-H

ANSWER

Case No. 7-CA-995

Now Comes Knight-Morley Corporation by and through its attorney, John F. Langs, and in answer to said complaint states as follows:

1. The respondent admits the allegations of paragraph I.

2. The respondent admits the allegations of paragraph II.

3. The respondent admits the allegations of paragraph III.

4. The respondent admits the allegations of paragraph IV.

5. The respondent admits the allegations of paragraph V.

6. The respondent admits the allegations of paragraph VI.

7. In answer to paragraph VII the respondent admits that the Union has been, since April 20, 1950, the representative for the purpose of collective bargaining designated by a majority of the employees in the unit set forth in paragraph V, but in view of action taken for decertification of the Union's position as filed before the National Labor Relations Board in Case No. 7-RD-165, this respondent is unable to admit or deny that the Union is still the proper collective bargaining agent for the employees of respondent. As to all other matters not either admitted or denied in paragraph VII this respondent denies the same.

8. That as to paragraph VIII this respondent denies each and every allegation therein contained and states the fact to be that it, through its proper officers and agents, has never refused to meet and negotiate with the Union at

General Counsel's Exhibit No. 1-H—Answer

its request or at the request of the State or Federal Mediators, and has never refused to discuss all matters proper and appropriate for such labor negotiation meetings, including rates of pay, wages, hours of work, grievances, labor disputes and other conditions of employment.

9. Respondent denies the allegations set forth in paragraph IX.

10. Respondent denies the allegations set forth in paragraph X.

11. Respondent admits the allegations set forth in paragraph XI, and has been informed by representatives of the Union that the Union and the employees on Appendix A are continuing on strike.

12. Respondent denies the allegations set forth in paragraph XII.

13. Respondent denies the allegations set forth in paragraph XIII.

14. Respondent denies the allegations set forth in paragraph XIV.

15. Respondent denies the allegations set forth in paragraph XV.

16. Respondent denies the allegations set forth in paragraph XVI.

17. Respondent denies the allegations set forth in paragraph XVII.

Wherefore, this respondent requests and prays that the complaint issued against it under date of May 7, 1954 be dismissed.

Knight-Morley Corporation,
By (s) Charles E. Morley.

(s) John F. Langs, Attorney,
2508 Guardian Building,
Detroit 26, Michigan,
WOodward 2-9460.

General Counsel's Exhibit No. 1-H—Answer

State of Michigan }
County of Wayne } ss

Charles E. Morley, being duly sworn, deposes and states on oath that he has read the foregoing answer to complaint of the National Labor Relations Board and that the information and facts therein stated are true, except as to those matters stated upon information and belief and as to such matters he believes it to be true.

(s) Charles E. Morley.

Subscribed and sworn to before me, a notary public, this 13th day of May, 1954.

My commission expires Nov. 11, 1956.

(s) Virginia Borkowski,
Wayne County, Michigan.

GENERAL COUNSEL'S EXHIBIT No. 1-M

AMENDED COMPLAINT

Case No. 7-CA-995

It having been charged by International Union, United Automobile, Aircraft and Agricultural Implement Workers of America, UAW-CIO, and Local 1125, International Union, United Automobile, Aircraft and Agricultural Implement Workers of America, UAW-CIO, that Knight Morley Corporation, herein called Respondent, has engaged in and is now engaging in certain unfair labor practices affecting commerce as set forth in the National Labor Relations Act as amended, 61 Stat. 136, and as further amended, 65 Stat. 601, 602, herein referred to as the Act, the General Counsel of the National Labor Relations Board, herein called the Board, on behalf of the Board, by the Acting

General Counsel's Exhibit No. 1-M—Amended Complaint

Regional Director for the Seventh Region as agent for the Board and as designated by the Board's Rules and Regulations, Series 6 as amended, Section 102.15, issues this Amended Complaint and alleges as follows:

I.

Respondent is now and at all times herein mentioned was a corporation organized and existing under the laws of the State of Michigan with its principal offices at Detroit, Michigan, and for many years and at all times herein mentioned it operated a manufacturing plant engaged in the production of automobile accessories at Richmond, Michigan.

II.

Respondent in the course and conduct of its business operations aforesaid during the 12-month period ending December 31, 1953 which period is representative of all times material hereto, purchased raw materials in excess of $100,00, of which approximately 50 per cent was shipped in interstate commerce to Respondent's plant at Richmond, Michigan, from points outside the State of Michigan. During the same period above mentioned, the Respondent manufactured and sold finished products valued in excess of $200,000, of which not less than 25 per cent was shipped in interstate commerce from its aforesaid plant at Richmond, Michigan, to points outside the State of Michigan. During the same period above mentioned, the Respondent sold finished products valued in excess of $100,000 to customers in Michigan, each of whom, in turn, shipped goods outside the State of Michigan valued in excess of $25,000.

III.

Respondent has been at all times herein mentioned and is now engaged in commerce within the meaning of Section 2 (6) and (7) of the Act.

General Counsel's Exhibit No. 1-M—Amended Complaint

IV.

International Union, United Automobile, Aircraft and Agricultural Implement Workers of America, UAW-CIO, and Local 1125, International Union, United Automobile, Aircraft and Agricultural Implement Workers of America, UAW-CIO, herein jointly called the Union, are labor organizations within the meaning of Section 2 (5) of the Act.

V.

All production and maintenance employees of the Respondent at its plant in Richmond, Michigan, excluding office and clerical employees, chemists, watchmen, and supervisors constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act.

VI.

On or about April 12, 1950, in a secret election conducted under the supervision of the Regional Director for the Seventh Region of the Board, pursuant to a Decision and Direction of Election issued by the Board in Case No. 7-RC-758, a majority of the employees in the unit described in paragraph V above, designated and selected the Union as their representative for the purposes of collective bargaining, and on April 20, 1950, the Board, by the Regional Director for the Seventh Region certified the Union as the representative of the Respondent's employees in the unit set forth in paragraph V above for the purposes of collective bargaining.

VII.

At all times since April 20, 1950 the Union has been the representative for the purposes of collective bargaining designated by a majority of the employees in the unit set forth above in paragraph V and, by virtue of Section 9 (a)

of the Act, has been and is now the exclusive representative of all the employees in said unit for the purposes of collective bargaining with respect to rates of pay, wages, hours of employment, grievances, labor disputes and conditions of work.

VIII.

On or about July 28, August 6, August 22, August 31, September 14, September 24, September 25, October 14 and October 29, 1953, and at various times thereafter, the Union requested Respondent to bargain collectively in respect to rates of pay, wages, hours of work, grievances, labor disputes and other conditions of employment as the exclusive representatives of all employees of the Respondent in the unit described above in paragraph V.

IX.

On or about the dates alleged in paragraph VIII above, and at all times thereafter, continuing to the date hereof, Respondent refused and continues to refuse to bargain in good faith with the Union as the exclusive representative of all the employees in the unit described above in paragraph V.

X.

By the acts described in paragraph IX, Respondent engaged in and is engaging in unfair labor practices within the meaning of Section 8 (a) (5) of the Act.

XI.

On or about August 31, 1953, the employees of the Respondent named in Appendix A, attached hereto, concertedly left their places of work because of their good faith belief in and/or the existence of abnormally dangerous conditions of work resulting from a failure of a blower system required by state law for the employees' protection.

General Counsel's Exhibit No. 1-M—Amended Complaint

XII.

The Respondent on or about August 31, 1953 discharged the employees named in Appendix A, attached hereto, because of their concerted activity described in paragraph XI above.

XIII.

On or about September 30, 1953, the employees of the Respondent named in Appendix B, attached hereto, ceased work concertedly and went on strike.

XIV.

The unfair labor practices described in paragraph IX and XII above were causal factors of the strike referred to in paragraph XIII above, and said strike was further prolonged by the unfair labor practice described in paragraph IX above and paragraph XV below.

XV.

On or about October 5, 1953 the Respondent discharged the strikers named in Appendix B hereto attached because of their going out on strike and their refusal to abandon the strike and return to work, and at all times since October 5, 1953 Respondent has failed and refused to reinstate or reemploy said employees.

XVI.

By the acts described above in paragraphs XII and XV Respondent discriminated and is discriminating in regard to the hire and tenure of employment of the employees named in Appendix A and Appendix B, thereby discouraging membership in the Union, and Respondent thereby did engage in and is engaging in unfair labor practices within the meaning of Section 8 (a) (3) of the Act.

General Counsel's Exhibit No. 1-M—Amended Complaint

XVII.

Respondent by the acts described in paragraph IX, through XVI inclusive, and by each of said acts, did interfere with, restrain and coerce and is interfering with, restraining and coercing its employees in the exercise of the rights guaranteed in Section 7 of the Act, and thereby did engage in and is engaging in unfair labor practices within the meaning of Section 8 (a) (1) of the Act.

XVIII.

The activities of Respondent as set forth in paragraphs IX through XVII inclusive, occurring in connection with the operations of the Respondent described in paragraphs I through III above have a close, intimate and substantial relation to trade, traffic and commerce among the several states and tend to lead to labor disputes, burdening and obstructing commerce and the free flow of commerce.

XIX.

The acts of the Respondent described above constitute unfair labor practices affecting commerce within the meaning of Section 8 (a) (1) (3) and (5) and Section 2 (6) and (7) of the Act.

Wherefore, on this 30th day of July, 1954, the General Counsel of the National Labor Relations Board, on behalf of the Board has caused the Acting Regional Director for the Seventh Region to issue this Amended Complaint against Knight Morley Corporation, Respondent herein.

(s) Wm. T. Little,
Acting Regional Director,
National Labor Relations Board,
Seventh Region.

(Seal)

General Counsel's Exhibit No. 1-M—Amended Complaint

APPENDIX A

H. Harsch
E. Meyers
E. Gierke
R. Simons
L. Porrett
John Willings
N. Byers
Zommassewski
L. Burns
W. Eggert
J. H. Willings
L. Basnow
D. McCue
H. Schultz
J. Muniz
P. Whittaker
W. Jackowski

APPENDIX B

Helga Anderson
Lottie Garlick
Lawrence Harrison
Veronica Essenburg
Clarence Bantien
Dorothy Cezik
Evah Oswald
Lily Paling
George Kelly
Frank O. Behmler
Edmund Baumgarten
George Stragea
Thomas Pietrikowski
Stella Kraatz
Daisy Martin
Roman Redlin
Harriett Sinda
Daisy Lynch
John Curzydlot
Alonzo Garlick
Tillie Lysczcyk
William Baumgarten
Ted Zembol
Herbert Fox
Dan Collins
Louise Dion
Eleanor Renner
Colleen Middleton
Jacqueline Jeffery
Lawrence Evans
Glen Dove
John Smith
Wallace Teltow
Ethel Chaltron
Harold Chaltron
Leona Ross
Gladys Fenton
Andra Scribner
Herman Gunst
Anna Carpenter
Helen Przytakowski
Robert J. Whitcombe
Irene Musial
Helen Bobcean
Francis Fasbender
Alfred Kammer
Blanche Russell
Clarence Kammer
Mildred Eldred
Charles R. Wiswell
Sara Maher
Anna Machowski
Hazen Bandlow
Violet Barber
Emma Meyers
Gladys Verscheure
Virginia McDonald
Dolores Collins
Wanna Burns
Lorraine Hunger
Donna Waterloo
Clara Henke
Marvin Hulett
Carlton Semos
Lawrence Simmons
Ralph Dove
Robert Arnold
Thaddeus Zembol
Robert Seifert
Delores Balhorn
Chester Warner
Richard Somes
Walter Kaufman
William Teska
Glenn Basnow
William Newton
Wayne Fistler
Charles Miller
Gabriella Bruder
Leona Martindale
Joseph Sulak
Betty Elsholz
Lawrence Harrison
Elmer Gundlach
Jess Underwood
Fred Barber
Joseph Doggendorf

GENERAL COUNSEL'S EXHIBIT No. 1-P

ANSWER TO AMENDED COMPLAINT

Case No. 7-CA-995

Now comes Knight-Morley Corporation by and through its attorney, John F. Langs, and in answer to said amended complaint states as follows:

1. The respondent admits the allegations of paragraph I.

2. The respondent admits the allegations of paragraph II.

3. The respondent admits the allegations of paragraph III.

4. The respondent admits the allegations of paragraph IV.

5. The respondent admits the allegations of paragraph V.

6. The respondent admits the allegations of paragraph VI.

7. In answer to paragraph VII the respondent admits that the Union has been since April 20, 1950 the certified representative for the purpose of collective bargaining designated by a majority of the employees in the unit set forth in paragraph V, but in view of action taken for decertification of the Union's position as filed before the National Labor Relations Board in cases No. 7-RD-165 and 7-RD-183, this respondent is unable to admit or deny that the Union is still the proper collective bargaining agent for the employees of respondent., As to all other matters not either admitted or denied in paragraph VII this respondent denies the same.

8. That in answer to paragraph VIII this respondent denies each and every allegation therein contained and states the fact to be that it through its proper officers and

agents has never refused to meet and negotiate with the Union at its request or at the request of the State or Federal Mediators and has never refused to discuss all matters proper and appropriate for such labor negotiation meeting, including rates of pay, wages, hours of work, grievances, labor disputes, and other conditions of employment.

9. Respondent denies each and every allegation set forth in paragraph IX.

10. Respondent denies each and every allegation set forth in paragraph X.

11. That in answer to paragraph XI respondent admits that certain employees of its buffing room unlawfully left their employment in violation of the Company rules and the contract between the Union and the Company on August 31, 1953. Respondent denies all other allegations in paragraph XI.

12. Respondent denies each and every allegation in paragraph XII.

13. Respondent denies each and every allegation in paragraph XIII.

14. Respondent denies each and every allegation in paragraph XIV.

15. Respondent denies each and every allegation in paragraph XV.

16. Respondent denies each and every allegation in paragraph XVI.

17. Respondent denies each and every allegation in paragraph XVII.

18. Respondent denies each and every allegation in paragraph XVIII.

19. Respondent denies each and every allegatiion in paragraph XIX.

General Counsel's Exhibit No. 1-P—Answer, Etc.

Wherefore, this respondent requests and prays that the complaint and the amended complaint issued against it be dismissed.

Knight-Morley Corporation,
By (s) Charles Morley

(s) John F. Langs, Attorney
2508 Guardian Building
Detroit 26, Michigan
WOodward 2-9460

State of Michigan }
County of Wayne } ss.

Charles E. Morley, being duly sworn, deposes and states on oath that he has read the foregoing answer to complaint of the National Labor Relations Board and that the information and facts therein stated are true, except as to those matters stated upon information and belief and as to such matters he believes it to be true.

(s) Charles E. Morley.

Subscribed and sworn to before me, a notary public, this 4th day of August, 1954.

(s) Pauline Hanson,
Wayne County, Michigan.

My commission expires 1-31-56.

GENERAL COUNSEL'S EXHIBIT No. 2

[LETTERHEAD OF SHEET METAL INDUSTRIES]

November 2, 1945

Proposal No. 2372
See P. O. #3491 11-7-45
Knight-Morley Corporation
4612 Woodward Avenue
Detroit 1, Michigan
Att: Mr. Morley

Gentlemen:

We are pleased to submit our quotation for furnishing and installing one complete exhaust system for 7 double end polishing jacks, 2 single station automatic polishers, 2—3 station automatic polishers, 1 porter cable and 1 producto in your Richmond Plant, to consist of the following:

1—14,430 C.F.M. Cyclo-Wash unit.
1—4½ H.S. ABC fan.
1—30 H.P., 1800 R.P.M. motor.
1—30 H.P. "V" belt driv.

Necessary steel platform for fan and motor and necessary duct work to connect from hoods to Cyclo-Wash unit.

1 Stack to extend from fan on Cyclo-Wash unit to atmosphere equipped with bypass valve and necessary return duct for returning air to building when required.

All duct work will be of standard blow pipe gauges riveted and soldered.

PRICE: $4875.00

Exceptions: Purchaser to furnish starters, push buttons and do all electrical wiring and water piping.

General Counsel's Exhibit No. 2

We thank you for the opportunity of quoting your requirements and trust that we may be of future service.

Conditions: The above price is subject to acceptance within 30 days from date of this proposal. All agreements made contingent upon strikes, fires, accidents, failure or delay of a carrier or other circumstances beyond our control.

Orders entered upon our books cannot be countermanded excepting with our consent, and upon terms that will indemnify us against all loss.

It is understood that any Federal, State or City Tax imposed by any present or future law on the sale or use of the above outlined equipment is to be paid by the purchaser, and to be added to the amount of the purchase price.

F.O.B.: Your Plant
Terms: 50% on delivery of material
50% Net 30 days
Delivery 10 weeks

Sheet Metal Industries
By (s) T. J. Lhota

TJL/mm

GENERAL COUNSEL'S EXHIBIT No. 6

LABOR LAWS
(Emblem)
G. Mennen Williams
Governor
State of Michigan
Department of Labor
Lansing, Michigan
1951
(Union Label)

LABOR LAWS

Act No. 43 of the Public Acts of 1921, as Amended.

Organization, Powers and Duties of the Department of Labor and Industry.

AN ACT to protect and promote industrial and labor interests of the people of the state of Michigan; to create a Department of Labor and Industry and prescribe the powers and duties thereof; to provide for the transfer to said department of powers and duties affecting labor and industrial matters now vested in certain other state boards, commissions, departments and officers and to abolish the boards, commissions, departments and offices the powers and duties of which are hereby transferred.

History: Amended by P. A. 1925, No. 377; P. A. 1937, No. 267; P. A. 1943, No. 241; Repealed by P. A. 1947, No. 357.

Act No. 357, Public Acts of 1947

AN ACT to establish a workmen's compensation commission; to prescribe the powers and duties of said commission, to transfer to said commission certain powers

General Counsel's Exhibit No. 6

and duties under existing acts; to provide for a commissioner of labor; to prescribe his powers and duties; to transfer to said commissioner of labor certain powers and duties under existing acts; to abolish the compensation commissioners of the department of labor and industry and the commissioner of labor as created by Act No. 43 of the Public Acts of 1921, as amended, and to repeal said act.

The People of the State of Michigan Enact:

Chapter II.

Sec. 21. There is hereby created a commissioner of labor who shall be appointed by the governor, with the advice and consent of the senate, for a term of 4 years and until his successor is appointed and has qualified. Any vacancy shall be filled in the same manner as the appointment is made in the first instance. The commissioner of labor shall receive an annual salary of $7,500.00: Provided, That the commissioner of labor appointed and designated under Act No. 43 of the Public Acts of 1921 as amended, and acting as such on the effective date of this act, shall fill the office of the commissioner of labor as created by this act until the expiration of the term for which he was appointed, upon the expiration of which the governor shall appoint a successor for the term and in the manner as provided in this section.

* * * * * * *

Acts of 1921, as amended shall be abolished, and wherever reference thereto is made in any law of this state, such reference shall be deemed to be made to the commissioner of labor as created in chapter 2 of this act.

Any hearing or other proceeding pending before such commissioner of labor shall not be abated, but shall be

rectly to the outside of the building or to some other receptacle placed so as to receive and confine such dust; Provided, That grinding machines upon which water is used at the point of grinding contract shall be exempt from the conditions of this act: Provided, further, That this act shall not apply to solid emery wheels used in saw-mills or planing-mills or other wood working establishments.

Solid emery wheels are included within this section. Drake vs. Industrial Works, 174 Mich. 622.

* * * * * * *

(408.79) Wheels; Equipped with Suction Pipes, Size. Sec. 29. Each and every such wheel six inches or less in diameter shall be provided with a three-inch suction pipe, wheels six inches to twenty-four inches in diameter with four-inch suction pipes, wheels from twenty-four inches to thirty-six inches in diameter with five-inch suction pipes, and all wheels larger in diameter than those stated above shall be provided each with a suction pipe not less than six inches in diameter. The suction pipe from each wheel so specified must be full size to the main trunk suction pipe, and the said main suction pipe to which smaller pipes are attached shall, in its diameter and capacity, be equal to the combined area of such smaller pipes attached to the same, and the discharge pipe from the exhaust fan connected with such suction pipe or pipes shall be as large or larger than the suction pipe.

(408.80) Fans or Blowers, Rate of Speed; Branch Pipes; Pipe Bends. Sec. 30. It shall be the duty of any person, company or corporation operating any such factory or workshop, to provide the necessary fans or blowers to be connected with such pipe or pipes, as above set forth, which shall be run at such rate of speed as will produce a velocity of air in such suction or discharge pipes of at least nine thousand feet per minute or an equivalent suction or pres-

sure of air equal to raising a column of water not less than five inches high in an U-shaped tube. All branch pipes must enter the main trunk pipe at an angle of forty-five degrees or less. All bends, turns or elbows in such pipe must be made with easy, smooth, surfaces having a radius in the throat of not less than two inches diameter, of the pipe on which they are connected.

History: As amended by P. A. 1929, No. 301.

* * * * * * *

GENERAL COUNSEL'S EXHIBIT No. 7

Knight-Morley Corporation UAW-CIO, Local No. 1125

GRIEVANCE FORM

Dept. Buffing Foreman Van Lerberghe Date 7/22/52

Employee's name All employees.

Nature of Grievance Inadequate equipment in this Dpt. with regard to Blowers.

Section of Contract Violated 54.

Union or Employee's Position Blowers in this department are overloaded, Since several machines have been added since installation.

Settlement Asked Additional equipment or boosters which were promised some time ago.

Signed:
Geo. Kelly
Clarence Kammer

Employee:
Dorothy Cezik

Chief Steward:
Alonzo Gar[illegible]k

General Counsel's Exhibit No. 7

(Reverse side)

Date July 22

Final Disposition Management put dampers on Individual jacks since item was last brought up. Agrees to put dampers on new machine also to determine if situation can be improved.

Signed:
C. E. Morley
For Company
Geo. Kelly
For Union

GENERAL COUNSEL'S EXHIBIT No. 8

NOTICE

March 1st, 1951

For the purpose of eliminating any question as to whose absenteeism has been excused, the company informs all employees that it will not recognize any claim for excused absence under the terms of the contract unless it is supported by written approval signed by the employees shift superintendent (Mr. Hebel, day shift—Mr. Hicks, afternoon shift—Mr. Harrison, midnight shift—or Mr. Bernia in the absence of the shift superintendent)—or by a doctor's certificate as per the contract—or by a leave of absence under the terms of the contract—or during scheduled vacation under the contract.

Regardless of whether an employee is excused or not during their regular working hours the employee must obtain a written pass from his shift superintendent to leave the

General Counsel's Exhibit No. 8

plant prior to the completion of their shift and should the employee fail to procure a pass to leave the company will consider that the employee has quit.

Knight-Morley Corporation
M. C. Bernia

GENERAL COUNSEL'S EXHIBIT No. 9

[LETTERHEAD OF KNIGHT-MORLEY CORPORATION]

Plant at 35375 Division Road
Richmond, Michigan

October 1st, 1953

Mr. George Kelly
69832 Beebe Street
Richmond, Michigan

Dear Mr. Kelly:

This to advise you that the Knight-Morley Corporation Plant is operating as usual.

In the event you do not report for work on your regular shift by Monday, October 5th, 1953, the Company will consider that you have quit your employment and you will be replaced by other or new employees.

Knight-Morley Corporation
(s) Milford C. Bernia
M. C. Bernia

MCB:jw

General Counsel's Exhibit No. 9

(ENVELOPE)

Knight-Morley Corp.
Richmond, Mich.

Mr. George Kelly
69832 Beebe Street
Richmond, Michigan

Return Receipt Requested
Fee Paid
REGISTERED
No. 138

GENERAL COUNSEL'S EXHIBIT No. 14

Oct. 12, 1953

Mr. John F. Langs
Attorney at Law
2508—16 Guardian Bldg.,
Detroit 26 Mich.

Dear Mr. Langs:

As perhaps you are aware, it is customary for employers involved in strike situations to make arrangements for maintaining the Group Insurance program in force, by paying the premiums of striking employees as they become due during the strike and, then when the strike is over and the employees have returned to work, deduct from their pay checks an amount equal to that advanced during the strike for the payment of such due premimus.

Will you kindly advise as to whether or not the Knight Morley Corporation will consider proceeding under such an arrangement, with the understanding that deductions covering amounts paid for employees will be in Order once the strike is over.

Very truly yours,

Bernard J. Young,
International Representative.
UAW-CIO.

BY/by
CC; Geo Kelly

GENERAL COUNSEL'S EXHIBIT No. 15

October 16, 1953

Mr. B. J. Young
Uaw.-Cio.
8000 East Jefferson ave.
Detroit 14 Mich.

Dear Mr. Young;

In reply to your letter of Oct. 12th, 1953 re the Insurance Program at Knight Morley Corporation, We do not understand that the Corporation has any liability to its foremen employees who have left their employment with the company and are engageing in a so called strike.

For your information, the hospital and surgical plan was cancelled as to those employees who left the employment of the company and did not report for work on Oct. 5th 1953. There is no way in which this insurance can be carried by an individual employee after he has left his employment with the company. The policy does cover maternity cases where birth occurs within nine months from the date employment is terminated.

With reference to Life insurance ploicicies, these were also terminated on Oct. 5 1953 and we understand from the insurance agent that each employee is covered for an additional 31 day period beyond the date of Oct. 5 1953 and we also understand that each empkoyee may, if he so desires, convert his policy into an individual policy. This conversion must take place within 31 days from Oct 5, 1953 We are also advised by the insurance that any permanent disability occuring within the 31 day period will result in a paid up policy for the former employee for life.

Very truly yours

jf l:nf
k

John F. Langs.

GENERAL COUNSEL'S EXHIBIT No. 18

June 12, 1954

Knight-Morley Corporation
35375 Division Road
Richmond, Michigan

Gentlemen:

This is to advise you that your employees have voted to terminate the strike currently pending against you and that the said strike is hereby terminated.

The International Union, United Automobile, Aircraft and Agricultural Implement Workers of America, UAW-CIO and its Local 1125, as the certified collective bargaining representative of your employees, hereby requests that you immediately reinstate all employees who were in the employ of your company on or about September 30, 1953 (the date the strike began) to their former or substantially equivalent jobs. This is a unconditional offer of reinstatement made by the union on behalf of all employees who were on the payroll of your company at the commencement of the strike in September, 1953.

You are likewise requested to reinstate immediately all employees whom you discharged on or about August 31, 1953 because of their activities to obtain correction of a faulty blower system in the buffing room to their former or substantially equivalent jobs. This also is an unconditional offer of reinstatement made by the union on behalf of those employees.

The offer of reinstatement made on behalf of the employees who went on strike on or about September 30, 1953 is not conditional upon your willingness to reinstate the second group of employees discharged on or about August 31, 1953; nor is the offer of reinstatement made on behalf

of the latter group of employees conditioned upon your reinstatement of the striking employees.

Your very truly,

Harry P. Harsch
Pres., Local Union No. 1125,
International Union, United
Automobile, Aircraft and
Agricultural Implement
Workers of America
UAW-CIO

Bernard J. Young
International Representative
International Union, United
Automobile, Aircraft and
Agricultural Implement
Workers of America
UAW-CIO

GENERAL COUNSEL'S EXHIBIT No. 19

June 21, 1954

UAW-CIO
Local 1125
Richmond, Michigan

Attention: Mr. Harry P. Harsch, President
Mr. Barnard Young, International Representative

Gentlemen:

Your letter dated June 12, 1954, addressed to Knight-Morley Corporation has been received and referred to the undersigned for reply.

We note with interest that you advise that the strike commenced by UAW-CIO on September 30 against Knight-Morley Corporation has been termited.

With reference to your request for immediate reinstatement of all employees who left their jobs on September 30, 1953, and went on strike, this is to advise that, as many of those employees have already returned to work and we are informed that many of the other employees who did not return to work have left the vicinity of Richmond, Michigan, and are no longer interested in returning to Knight-Morley Corporation as employees, and as we are further advised that several of the employees who went on strike on September 30, 1953, no longer desire to be re-employed at Knight-Morley Corporation, we are not in a position to know just what employees might be interested in returning to Knight-Morley Corporation as employees and as such we are unable to determine whether replacements have been made with respect to a particular employee. A great many of the jobs of the employees who went out on strike have been filled by replacements or eliminated by

General Counsel's Exhibit No. 19

changes in our operations. The company is hiring employees from time to time and will give consideration to all such employees who file an application with Knight- Morley Corporation requesting reinstatement and indicating that they desire to return to work. With reference to those employees who left the employment of Knight-Morley Corporation on or about August 31, 1953, we do not feel that we have any responsibility to these employees as a result of your letter of June 12. However, as we have no animosity toward these employees or any other employees, we are willing to give due consideration to them to the extent of the individuals who file a written request for employment with Knight-Morley Corporation and to the extent that the jobs which they formerly occupied have not been replaced, either by other employees or by changes in our operations.

Such applications on behalf of the employees mentioned in your letter of June 12, 1954, should be filed by the individual employees as soon as possible.

This letter shall not be construed as an admission of liability with respect to any positions which the company has taken before the National Labor Relations Board or the Michigan Employment Security Commission.

Very truly yours,

John F. Langs
General Counsel
Knight-Morley Corporation

Disposition by Foreman_____

Disposition by Supt._____

Signed_____
Plant Supt.

Disposition by Management Date 9-21-53

Management has considered the grievance presented by the Union dated Sept. 18, 1953, re Buffing Room Employees who quit their work on August 31, 1953.
It is the position of the Company that the employees quit their employment in violation of the notice posted March 1st, 1951, and had they not quit their employment they would have been in violation of Paragraph 33 of the Contract and subject to disciplinary action for failure to do appointed work and failure to comply with agreed grievance procedure.
The Company does not find, in view of the fact that other employees continued at their work, that the blower equipment was not working, therefore, the Company cannot agree with the settlement asked.
The Company does not believe that Section 15 of the Contract is applicable.
The Company believes that it has complied with Section 54.

Signed C. Morley
Plant Management

Note

Page 51a is on card 3
Page 52a is blank
Pages 53a and 54a are on card 3

GENERAL COUNSEL'S EXHIBIT No. 29

BUREAU OF INDUSTRIAL HYGIENE
DETROIT DEPARTMENT OF HEALTH

Polishing and Buffing Wheels

Minimum Exhaust Ventilation Requirements For Hoods on Polishing and Buffing Wheels Producing Nuisance Dusts

All stationary production polishing and buffing wheels must be provided with hoods and an exhaust system for removing dust and polishing compounds. The hood must enclose the wheel as much as possible, consistent with the type of service for which it is to be used. The hood must also be constructed so that the stream of dust and polishing compounds generated at the wheel is directed into the hood.

Where neighborhood nuisances are likely to be created, adequate dust collectors must be provided. The dust collectors must meet the approval of the Bureau of Smoke Inspection and Abatement, Detroit Department of Buildings and Safety Engineering.

The following airflows and duct diameters are required on production polishing and buffing wheels where highly toxic materials are not processed. (Highly toxic materials; i.e., lead, cadmium, and beryllium require individual technical consideration.)*

Wheel Dimensions**			Air Volume Exhausted CFM		Good Wheel Enclosure***	Poor Wheel Enclosure
Diameter Minimum (Inches)	Diameter Maximum (Inches)	Width Maximum (Inches)	Good Wheel Enclosure***	Poor Wheel Enclosure	Branch Duct Diameter	Branch Duct Diameter
	9″	2″	300 cfm	450 cfm	3½″	4½″
Over 9″ . .	16″	3″	500 "	750 "	4½″	5½″
Over 16″ . .	19″	4″	610 "	910 "	5″	6″
Over 19″ . .	24″	5″	740 "	1110 "	5½″	7″
Over 24″ . .	30″	6″	1040 "	1560 "	6½″	8″

*Consult the Bureau of Industrial Hygiene, Detroit Department of Health, TRinity 2-1540, Ext. 292 or 293.

**Wheel Dimensions are based on the largest wheel that can be used within exhaust enclosure.

***Good Wheel Enclosure—Not more than 25% of wheel periphery and wheel sides exposed.

DIH 20a-2

RESPONDENT'S EXHIBIT No. 1-A

AGREEMENT

Between

KNIGHT-MORLEY CORPORATION

Richmond, Michigan

and

LOCAL No. 1125

International Union

United Automobile, Aircraft

And Agricultural Implement

Workers of America—CIO

(U. A. W.—CIO)

(union label)

* * * * * * *

GRIEVANCE PROCEDURE

8. (a) Step 1. A grievance of an employee, or or group of employees, shall be taken up by the employee, or group of employees, with the Group Steward and then, together, with the Departmental Foreman. If a satisfactory settlement cannot be arrived at with the Foreman, the grievance shall be then referred by the Steward to:

1. The Chief Steward, if the grievance originates on a shift where there is no committeeman.
2. A committeeman, if the grievance originates on a shift where a committeeman is working.

(b) Step 2. The Chief Steward or a Committeeman, (whichever the case may be) accompanied by the Steward, shall attempt to work out a solution with the Foreman. If no satisfactory settlement results the Chief Steward (or Committeeman) may then reduce the grievance to writing.

Respondent's Exhibit No. 1-A

(c) Step 3. The grievance written or oral shall then be referred by the Union to the Group Committeeman, who shall then take the grievance up with the Plant Superintendent for discussion and possible settlement, and the position of the Superintendent shall, within twenty-four hours, be written on the grievance form if presented in writing.

(d) Step 4. If, as a result of Step 3, the grievance remains unsettled the Plant Shop Committee shall than further process the grievance in writing in a meeting with Plant Management, as hereafter provided for, who will give its answer in writing within five days thereafter.

(e) Step 5. If the grievance remains unsettled, the Union or the Company may present it to an arbitrator mutually agreed upon by the Company and the Union, if no arbitrator is agreed upon, than an arbitration panel consisting of three members; one member to be chosen by the Company and one member to be chosen by the Union. These two members shall choose the third member. The decision of the arbitration panel shall be final and binding on both parties and the cost of the third member shall be borne equally by the Company and the Union. The arbitration panel may not add to or subtract from the terms of this agreement.

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14. It is agreed between the Union and the Company that during the term of this agreement there shall be no strike, slow down or other stoppage of work, and in the event the Union and the Company are unable to settle a particular grievance it shall be settled by arbitration pursuant to Section 8(e) at the request of either party in writing.

15. Should the Company believe that any provisions of this contract have been violated, or that it has a grievance

against the Union, or any of its members, it shall reduce the grievance to writing, and present it to the Shop Committee for discussion and consideration. If no satisfactory adjustment results the Company and the Committee, together with a representative of the International Union, shall meet as promptly as possible and attempt to reach a satisfactory solution to the problem involved. Failing in this attempt the matter may then be presented by the Company through the arbitration procedure as hereinbefore provided.

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GENERAL

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46. The Union agrees that it will not cause any strikes or work stoppages during the term of this agreement; that if any of the employees within the bargaining unit covered by this agreement acting without authorization or approval of the Union should engage in such a work stoppage or strike, the Union will promptly direct such employees to resume work and will take all appropriate and feasible steps to terminate the strike.

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54. The Company agrees to maintain such sanitary and healthful working conditions and provide such safety devices as are required by the laws of the State of Michigan. The employees in the performance of their jobs shall at all times use all safety devices, protective equipment and special clothing which are furnished by the Company.

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GENERAL COUNSEL'S EXHIBIT No. 1-B

AMENDMENT TO LABOR AGREEMENT

Whereas, Knight-Morley Corporation, a Michigan corporation of Richmond, Michigan, (hereinafter referred to as Company), and International Union, United Automobile, Aircraft, And Agricultural Implement Workers Of America, UAW-CIO, and its Local No. 1125, (hereinafter referred to as Union), entered into a certain Labor Agreement dated October 20, 1950, which Agreement terminates September 5, 1953, and

Whereas, the Union has requested certain changes in the Agreement, and

Whereas, the Company has served notice of termination of the Agreement, and

Whereas, the parties are in the process of negotiating a new contract;

Now Therefore, the Agreement entered into between the Company and the Union dated October 20, 1950 and as thereafter amended is hereby continued until September 25, 1953, and it is agreed between the parties that said contract shall terminate on September 25, 1953, unless a new agreement is entered into on or before that date or said contract is extended by written agreement between the parties.

Dated this 24 day of August, 1953.

Knight-Morley Corporation
By Charles E. Morley
International Union, United Automobile, Aircraft, and Agricultural Implement Workers of America, UAW-CIO.
Alonzo Garlick
Robert Seifert
Geo. Kelly
Gay Bruder
Bernard J. Young

RESPONDENT'S EXHIBIT No. 2

July 14, 1954

Local No. 1125
UAW-CIO
Richmond, Michigan

Re: Knight-Morley Corporation

Gentlemen:

Your letter of July 6, 1954 addressed to Knight-Morley Corporation has been referred to the undersigned for reply.

Our letter of June 21, 1954 was a sincere effort to expedite the procedural problems created pursuant to your letter of June 12, 1954.

We did not take the position of placing the striking employees who went on strike September 30, 1953, in a new employee position. In fact, we stated specifically that we wished to know which employees wanted to be "reinstated."

We, of course, deny any charge contained in your letter of July 6th, or which you have made at any time, that the Company has engaged in any unfair labor practices.

You state that the list attached to your letter of July 6th has been checked by you and you have determined that these employees are entitled to re-instatement. You apparently have been very careless with your checking as we have determined from a very quick, but incomplete check, that Therese Smith went on leave January 10, 1953 and never returned to work. Olga Powers quit July 18, 1953; Lulu Dobbs was on leave and over-stayed her leave by 2 months, and was thereafter rehired as a new employee on April 20, 1954, and is now working. Glenn Besnow, who is listed among the afternoon blowers, who walked

out of their jobs, did not walk out at that time, but continued to work until the time of the strike, September 30, 1953.

Because of your carelessness in attempting to determine those employees who desire reinstatement (and we asked you to check the list as the Bargaining Agent for said employees) we are contacting these employees direct by mail for the purpose of determining their interest in reinstatement and we will thereafter act in accordance with our letter to you dated June 21, 1954.

Very truly yours,

John F. Langs.

JFL:h
cc Mr. Bernard Young
3520 Military Street
Port Huron, Michigan

Note

Respondent's Exhibit No. 3 (11 sheets)
is on cards 3 and 4
Respondent's Exhibits 12 and 13
are on card 4
(Pages 62 - 72)

1

TRANSCRIPT OF TESTIMONY
August 11, 1954

BEFORE THE

NATIONAL LABOR RELATIONS BOARD
SEVENTH REGION

In the Matter of:	
Knight Morley Corporation,	
and	
International Union, United Automobile, Aircraft and Agricultural Implement Workers of America, UAW-CIO, and Local 1125, International Union, United Automobile, Aircraft and Agricultural Implement Workers of America, UAW-CIO.	Case No. 7-CA-995

Macomb County Courthouse,
Mt. Clemens, Michigan,
Wednesday, August 11, 1954.

Pursuant to notice, the above-entitled matter came on for hearing at 10:00 o'clock, a.m.

Before: W. Gerard Ryan, Esq., Trial Examiner.

Appearances:

Herman Corenman, Esq., 314 East Jefferson Avenue, Detroit 26, Michigan, appearing on behalf of the General Counsel.

John F. Langs, Esq., and R. F. Molyneaux, Esq., 2508 Guardian Building, Detroit 26, Michigan, appearing on behalf of Knight Morley Corporation, the Respondent.

Testimony of Charles E. Morley

1(a)

Winston L. Livingston, Esq., 8000 East Jefferson Avenue, Detroit 14, Michigan, appearing on behalf of International Union, United Automobile, Aircraft and Agricultural Implement Workers of America, UAW-CIO, and its Local 1125, the Charging Party.

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PROCEEDINGS

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38

CHARLES E. MORLEY, a witness called by and on behalf of the General Counsel, being first duly sworn, was examined and testified as follows:

Direct Examination

* * * * * * *

Q. (By Mr. Corenman) Are you the president of the Knight Morley Corporation?

A. That is correct.

Q. That is the respondent in this case?

39

A. Yes, sir.

Q. And about how many years have you operated your plant here in Richmond?

A. I believe since some time around 1944 or 1945. I am not positive of that.

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Q. Now, will you tell us briefly what business the Knight Morley Corporation is engaged in?

A. Manufacturing business.

Testimony of Charles E. Morley

Q. What does it manufacture?

A. Principally automotive products, accessories.

Q. Can you name a few of the products that it manufactures?

A. Well, the major product is outside rear view mirrors, locking gas caps, some ornamental gadgets.

Q. Will you name a few of the principal customers of the company?

A. Sears, Roebuck; Firestone Tire and Rubber Company; Atlas Supply; Campbell's; various automotive concerns such a Buick, Pontiac, Chevrolet, Packard.

Q. Now, your plant is located at Richmond, Michigan, is it not?

A. That's correct.

Q. What departments do you have in your plant in Richmond?

A. I assume you mean—

41

Q. What manufacturing departments do you have?

A. Well, we have a tool room, we have assembly, what we term as miscellaneous, which is miscellaneous, normally miscellaneous machining operations, die casting, plating, buffing, stamping.

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43

Q. And I will ask you whether or not the blower system that is described on General Counsel's Ehibit 2 is the one the company purchased?

A. That is correct.

Q. And that same information is contained in General Counsel's Exhibit 3, the company's purchase order, is that correct?

A. That is correct.

Q. Now, I direct your attention to this item: One

14,430 C.F.M. cyclo-wash unit. Can you tell us what that is?

A. That was the proposed system, or the wash unit that they proposed to furnish us.

Q. Do you know what 14,430 C.F.M. means?

A. It means 14,430 cubic feet a minute.

Q. And the next item is one 4½ H.S. ABC fan. Will you tell me what that means, if you know?

A. I believe that refers to the fan that is used on top of the building as part of the blower unit.

Q. Do you know what 30 HP means? Does that mean 30 horse power

44

A. That is correct.

Mr. Corenman: I will withdraw that last question.

Q. (By Mr. Corenman) Do you know what 4½ HS means?

A. I can't say exactly what it means, no. It refers to a fan unit. Just exactly what that fan unit is, or whose unit it is, I don't know.

Q. Do you know what that term ABC means?

A. I am sorry, I don't.

Q. You do not. I will ask you if you know what type of a fan the Sheet Metal Industries installed for you on the roof?

A. It is a paddle type fan.

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Q. Do you know what type of a motor was eventually installed

45

on the roof to propel the fan? Was it the thirty horse power 1800 rpm motor or was it some other motor?

A. I believe it was thirty horse power 1800 rpm.

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Testimony of Charles E. Morley

Q. Is that the fan on the roof or a different fan you are talking about?

A. It would be the fan on the roof.

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49

Q. (By Mr. Corenman) Mr. Morley, are you able to state to us generally and describe to us the equipment that was installed in your establishment in 1945, in connection with the blower system, and you may refer to these documents to refresh your recollection, of course.

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The Witness: Generally speaking, it is—it consists of a fan and water wash unit, and a series of pipes and hoods and

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so forth, to exhaust, air from around various wheels in the buffing room, and either exhaust that air to the outside of the plant or in the winter bring it to the inside of the plant after washing it and removing any particles.

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52

Trial Examiner: Do you have to establish why it failed from an engineering viewpoint?

Mr. Corenman: No, I don't think I have to establish why it failed, but I think it should be established that the failure in some way affected the health of the men and how it affected the health of the men.

Trial Examiner: Then you are in a medical field.

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Q. (By Mr. Corenman) After this blower system was installed by the Sheet Metal Industries in 1945 were there any additions or improvements made to the blower system, or changes?

Testimony of Charles E. Morley

A. Changes made, as far as the location of machines and so

53

forth in the plant, which is ventilated by the blower system. Is that what you wish to know?

Mr. Corenman: Yes. Let me put it to you this way:

Q. (By Mr. Corenman) When that blower system was installed, how many buffing jacks did you have in the shop?

A. By actual buffing jacks you mean individual buffing jacks, automatic machines?

Q. Individual buffing jacks, yes.

A. It shows seven individual buffing jacks on this plan.

Q. Did you actually have that many buffing jacks in the shop at the time?

A. I believe so.

Q. Does each buffing jack have two spindles on it?

A. That is correct.

Q. In other words, you could have two men working at each buffing jack, is that right? Two men working on a wheel?

A. That is correct.

Q. Did you have any automatic machines in there at the time of the 1945 installation of the blower system?

A. Yes, the plan shows four automatic machines.

Q. Were they actually installed at that time?

A. I believe they were.

Q. Does that constitute all of the buffing jacks that were in the shop at that time? How about the straight line automatic? Was that in the shop at the time?

54

A. If you are referring to the present straight line automatic we are using, no.

Trial Examiner: For the Trial Examiner's benefit, would you describe what the buffing jack is, please?

Testimony of Charles E. Morley

The Witness: The buffing jack basically is simply a spindle that is driven by a motor, and ordinarily the spindle is so equipped that two buffing wheels or polishing wheels can be put on each jack, one on each end of this spindle.

Mr. Langs: I wonder if I could simplify this a little bit? Mr. Morley is a fairly good artist, and if he would take a piece of paper and a pencil I think he could fairly draw a picture.

The Witness: I can, if you wish.

Trial Examiner: I have no objections; in fact, I would welcome it, but what I am concerned with at the moment is not the particular situation in 1945 but what was the particular situation on or about August 31, 1953, when the Complaint alleges in paragraph 11 that there was a failure of the blower system.

Mr. Corenman: Very well, I will direct my question to that point.

Q. (By Mr. Corenman) Can you describe the number of buffing jacks in the plant on August 31, 1953?

A. I would have to refer to some previous testimony to get the exact number. I think we had three rotary automatic

machines. We had a straight line buffing machine, automatic machine, which was not in use at that time, which was blocked off in such a manner that it wasn't connected directly to the blower system. That is, it was blocked off from the blower system, and I believe we had ten buffing jacks.

Q. Now, getting to your last bit of testimony, in August 1953 you had three rotary automatic machines, and each one of these rotary automatic machines had how many buffing jacks?

A. Each of them has three heads.

Testimony of Charles E. Morley

Q. Is that operated by one man, all three heads?

A. Yes, one employee.

Q. And you had one straight line buffing machine in August, 1953. Was that in use?

A. It was not in use at that time, no.

Trial Examiner: At what time, please?

The Witness: August 31st it was not in use.

Trial Examiner: August 31, 1953?

The Witness: Yes.

Q. (By Mr. Corenman) You had ten buffing jacks, and each of those buffing jacks had two wheels on them?

A. Right.

Q. In other words, twenty men could operate the ten buffing jacks, twenty buffers?

A. That is correct.

Q. And three rotary automatic machines were being operated by

three men. Is that one on each rotary?

A. Yes.

Q. Now, this—the Trial Examiner asked you to describe the buffing wheel. The buffing wheel is a big cloth wheel. About how big in diameter is it?

Trial Examiner: The buffing jack, was my question.

Mr. Corenman: Is it the jack or the wheel?

The Wtiness: The wheels are normally incorporated on jacks.

Mr. Langs: Why not let Mr. Morley draw a picture, Mr. Corenman, and take it, subject to my objection. We don't deny the existence of the jacks and what they look like.

Mr. Corenman: That is perfectly all right. If he thinks he can state it clearly, that is perfectly all right, too.

The Witness: Briefly, I would say that is a fair picture of the buffing installation.

Testimony of Charles E. Morley

Q. (By Mr. Corenman) This whole thing is called a buffing jack, is that right?

A. Normally the jack would be the center portion only.

Q. The buffing jack has two wheels on it, is that right? These are wheels here?

A. Yes. In other words, there is a place on the buffing jack to install two wheels of some description.

Q. Ordinarily you would have one man working on each wheel, is that right? Buffing?

A. Yes.

Q. These wheels are made of sections of cloth fastened together in some manner?

A. Buffing wheels are, yes.

Q. These wheels are used to buff or polish these rear vision mirrors and so forth that you manufacture?

A. Specifically one type of wheel is used to do what we call polishing or oiling, and another type of wheel is used to buff or shine the object.

Q. The polishing wheel is used principally to polish the die cast metal when it first comes from the die cast room, is that correct?

A. If you happen to be buffing die cast metal or polishing die cast metal it could be used for that, yes.

Q. Let me put it this way: The first step, when you say you are making an ornament, I presume you first die cast it, is that correct?

A. If it happens to be a die cast ornament.

Q. That's correct, and then the die cast comes to the polishing and buffing room in sort of a rough stage, is that it, with a lot of jagged edges on it, and so forth?

A. You wish me to—

Q. If I am not stating it correctly you can correct me, because I don't know much about it.

A. You wish me to describe the various operations that

58

normally a piece of die cast material will go through?

Q. That will be satisfactory with me, if you will.

A. Normally you run a die casting in a die casting machine, which makes a die cast. From there it would go to punch presses where your gates and trims and so forth would be taken off by running it through the punch press, and any subsequent machining operations that are necessary would be incorporated, and the object would go to the buffing room where normally it would be polished. That is, the imparting lines, or imperfections that were on it after it came through the punch press, would be removed.

Following that, it would be buffed with the buffing wheel to give it a high polish.

Q. Now, do you use any sort of buffing or abrasive compound to polish the die cast material and to buff it?

A. In order to polish you use—there are several ways of doing it. Normally we use what is known as a polishing wheel. That consists of a cloth wheel on which abrasive material is glued, and then normally you use an oiling material to keep the wheel from flaking or unloading or loading up with the material you are removing, and following that ,when you are buffing it you use a Tripoli or some compound of that nature to buff.

Q. Then, after the polishing and buffing operations it usually goes back to the plating room for various types of

59

plating, is that right?

A. If it is to be a plated article.

Q. Now, in the polishing and buffing operations is there any dust or dirt created?

A. There is a certain amount of dirt, and I suppose dust also, which results from a decomposition of the wheel,

breaking down of the wheel, and also from the removing of whatever is removed from the castings.

Q. Now, the object of that blower system which we have been speaking about is to suck this dirt and dust, and to keep it out of the room, isn't that true?

A. To take a portion of it, yes. Also, of course, there are hoods and so forth on these units which also serve the purpose of collecting some percentage of it.

Q. Now, over—surrounding each buffing wheel there is a hood, is that correct?

A. That is correct.

Q. That hood will catch a lot of loose particles, and where will it throw that, the loose particles caught in the hood, where will that go?

A. A number of them will remain in the hood or they will fall down below, towards the floor

Q. And the balance of it, that doesn't fall on the floor, where is that carried to?

A. The majority of it would go out through the blower

system.

Q. In other words, the blower system, is that attached to the hood in some manner?

A. That is correct.

Q. Sort of a blower pipe leads from the main blower system to each hood, is that correct?

A. That's correct.

Q. And there is one hood over each wheel, is that right?

A. That's right. In other words, there is a main piping unit on the blower system and various branches off of it that go down to the hoods surrounding the wheels.

Q. Now, as the dirt and dust is sucked into the blower pipe and goes into the main blower pipe, where does it go from there?

Testimony of Charles E. Morley

A. Well, a portion of it will adhere to the various pipes, necessitating cleaning occasionally, and some of it, a great majority of it, would go on through the blower system. In this case, where we have a water wash system, the air is sucked through a water screen which precipitates all foreign or most foreign matter from the air, and that, in turn, accumulates in the bottom of the blower system, in the water, until it is removed.

Q. Then the air stream goes up to the roof and is discharged by the fan at the top of the roof, is that right?

A. That is correct. In other words, as I stated, in the

61

summertime we are discharging into the open air, and in the wintertime it is returned back to the plant to avoid heat dissipation.

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64

Q. I understand you did make some changes when you added on a straight line automatic, for example, didn't you?

A. Yes, that necessitated some changes.

Q. Yes.

A. However, as I testified, that wasn't in operation at the time in question, and was blocked off from the system.

Q. That's right.

A. It was there on the floor.

Trial Examiner: Will you tell me more about that term you used, blocked off? Does that mean permanently blocked off? First of all, what does blocked off mean?

The Witness: In any blower system it is customary to put or make available, if they feel it is necessary, baffles or doors that could either be pushed into position or swung into position to block a particular machine off from the system, so that as far as the effect on the system, it wouldn't actually be there.

Testimony of Charles E. Morley

In other words, if no air can be drawn through, for all practical purposes the object isn't existing as far as the blowers are concerned.

Trial Examiner: I understand about that, but just for purposes of example, if one machine for some reason or other was not operating, you could cut the air or the exhaust off from that machine without affecting the operation of the rest of the system?

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The Witness: That is correct.

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Q. (By Mr. Corenman) Mr. Morley, you stated one time there that on this straight line automatic you blocked it off from the rest of the blower system, is that right?

A. It was connected with a suction pipe, and there was a baffle put into that suction pipe that could be opened or closed.

Q. Now, do you recall whether or not that was done upon the basis of a grievance filed by the union around July 22, 1952?

A. In the normal course of events we would probably install baffles on many machines. In other words, we do it so that we can, if we wish, block off a parteiular unit.

Q. But the particular occasion that led to your installing of the baffle doors was a grievance filed by the union on July 22, 1952, is that correct?

A. I would say that—that would be a very moot question. As I stated, it wasn't done as a result of any particular grievance. We normally quite often block off blower units so we can shut off the blower unit when we wish to effect some repairs; in other words, so it won't be necessary to shut down the entire plant in order to effect repairs.

Testimony of Charles E. Morley

Mr. Corenman: I will ask the reporter to mark for identification General Counsel's Ehibit Number 7.

(Thereupon, the document above referred to was marked General Counsel's Exhibit No. 7 for identification.)

71

Mr. Corenman: This is a grievance form of the UAW-CIO, Local 1125, dated July 22, 1952.

Q. (By Mr. Corenman) Mr. Morley, I will now hand you General Counsel's Exhibit 7, and ask you if that is not the grievance form that you produced in response to my subpoena?

A. Yes, sir, it is.

Q. Do you recall that grievance being filed by the union on or about July 22, 1952?

A. I can't recall as to the particular date, except the date that is on here. I presume it was filed about that time.

Q. After reading that, do you recall now the union, the nature of its grievance, states as follows: "Inadequate equipment in this department in regard to the blower."

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72

Mr. Corenman: We offer into evidence General Counsel's Exhibit Number 7.

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Mr. Corenman: The purpose of this is to show, Mr. Examiner, the union was contending July 22, 1952, as a grievance concerning a deficiency in the blower system, and what was done to remedy it.

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73

Q. (By Mr. Corenman) Mr. Morley, you recall the date

of August 31, 1953, do you not?

A. Yes, I do.

Q. Was that a hot day?

A. A fairly warm day, yes.

Q. Do you recall whether the day shift came to work on August 31, 1953?

A. Yes, I believe the day shift all—or practically all—reported for work on that day.

74

Q. And they worked about two hours, is that correct?

A. That is correct.

Q. And can you state whether or not anything came to your attention on the morning of August 31st that certain complaints were made by the men that the blowers were not operating efficiently?

A. No one made any complaint whatsoever, to my knowledge. If you wish me to explain why they worked two hours on that day—

Q. Yes, if you wish, you may state, if you know.

A. Normally our procedure, as I stated previously, this blower system collects a certain amount of dirt which it takes out of the air. Once each week it is our normal procedure to clean the entire system. This was normally done on a Saturday, when we were working a five-day week, which we again normally worked.

Under our contract, when we brought people in for overtime it was necessary to selectively go through our seniority list to determine who would work, and it was our normal procedure to select some of the employees in the buffing room to come in on a Saturday to clean this blower.

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76

Trial Examiner: Do you know of your own personal knowledge why they worked two hours?

Testimony of Charles E. Morley

The Witness: Yes, I do.

Trial Examiner: Will you state what you know of your own personal knowledge?

The Witness: Because the blowers were not cleaned on Saturday—because we were unable to get anyone to come in and clean them on Saturday, everyone refused to work on Saturday—therefore, when they came in on Monday morning, again our contract calls for—called at that time for paying people for two hours' work if they came in and were not previously told not to report. It was impossible for us to report to them that they were not desired on Monday due to the fact that we had to go through our seniority lists on the day shift and afternoon shift in order to determine if anyone would clean our blowers on Saturday.

When no one would clean them on Saturday, we worked for

two hours on the following Monday morning, a normal operation, and then we took the top people on the seniority list and kept the people that were required to clean the blower so we could operate efficiently for the balance of the week.

Mr. Corenman: I move all of this testimony be stricken as hearsay.

Trial Examiner: I don't see—or I don't understand why it was that the people worked only two hours on Monday.

The Witness: Because, sir, while I don't know that it is absolutely necessary to clean the blower out every five days or every six days, it was our customary procedure to do this, to keep the blower in efficient working condition, in order to remove all of the stuff that had collected the week before. So, therefore, when the blower wasn't cleaned at the usual time on Saturday, on the following Monday

we felt it was necessary, for efficient operation, to clean our blower.

Trial Examiner: Does that mean, then, that--I will withdraw that. How many employees normally work on the day shift on Monday?

The Witness: I can't say exactly how many were working at that particular time.

Trial Examiner: Here is my question. Did everybody in the place come in and work two hours and then leave? What happened?

The Witness: Everyone—or practically everyone—again

I wouldn't know without referring to the record, whether we may have had a few absentees—but practically everyone came to work on that Monday morning.

After giving them the two hours' work that were required under our contract, we then kept just enough of those various men to effect the cleaning operation on the blower. That normally requires two or three men.

Mr. Corenman: Well, all right.

Q. (By Mr. Corenman) It is your contention you sent the whole day shift home except three or four men you kept to clean the blower system out, is that correct?

A. That is correct.

Q. As far as you recall, you don't remember any complaints coming from any of the morning crew that the blowers weren't operating?

A. None whatsoever, no, sir.

Q. So your sole motive then in sending the men home after two hours' work was what?

A. To clean the blowers.

Q. To clean the blowers. Although no complaints had been made by the men, the blowers were not working, is that correct?

Testimony of Charles E. Morley

A. That is correct, because that was the normal procedure in our plant, to clean the blower once a week. You can readily understand—I don't know whether it is absolutely necessary to clean them every five days, six days or seven days, but over

79

a period of time they accumulate a sufficient amount of dirt so that some period is necessary to remove that dirt.

Trial Examiner: Before we go too far without a ruling from the Trial Examiner, on an order to dispose of General Counsel's motion to strike a portion of the witness's foregoing testimony, that motion is denied.

Q. (By Mr. Corenman) Now, Mr. Morley, the morning shift, the day shift, work from seven-thirty in the morning until three-thirty in the afternoon, is that correct? Perhaps from seven a.m. until three-thirty?

A. I believe it is from seven until three-thirty.

Q. So did the afternoon shift come on to work at three-thirty that afternoon?

A. Yes.

Q. What occurred that afternoon out of the ordinary?

A. By the time the afternoon shift reported in, the blowers had been cleaned and everything was in order again, to resume normal operations, and so they simply started working. After they had worked for a period of a couple of hours our afternoon superintendent came in to see me and said that one of the men had questioned whether or not the blower was working satisfactorily, and I believe the man in question himself came in to see me.

Q. What was the name of your afternoon superintendent?

A. Mr. Hicks.

80

Q. What was the name of the man, himself, who came

in to see you?

A. Mr. Harsch.

Q. That is Harry Harsch?

A. Yes.

Q. Was he president of the local union?

A. So I was informed.

Q. All right, what happened between you and Mr. Harsch?

A. Mr. Harsch told me that he believed the blower wasn't working as efficiently as it should, and so I accompanied him out into the plant and endeavored to look the entire situation over as best I could.

Everything seemed to be running normally. I smoke cigars. I went around to some of these various units. I don't know as I went to every one, but I went to a number of these various buffing units, blew cigar smoke; the unit took the cigar smoke out, and everything seemed to be—as far as I could determine—working exactly the same as it had always worked.

Following that, after I returned to my office, Mr. Hicks came in and told me Mr. Harsch was apparently endeavoring to instigate a wildcat strike and get the men off of their jobs, and apparently some of the men, or a number of the men, were going to leave, and asked me what he should do.

I asked him if he would go back and state our position on it, to the effect that if these men left their jobs on a

wildcat strike they would be violating the contract, and also if they left their jobs without receiving passes and so forth in connection with the notice which we had posted, which we had worked out with the union, back in 1951, that we would consider they had quit their jobs, and as a result of it they would be out of work.

I understand he went out—

Q. Just a minute. You didn't hear what he said to the men?

A. I didn't hear what he said to the men. He informed me that he told them exactly what I told him, and he came in very shortly and advised me that it looked like they were still going. So I went out into the plant myself and endeavored to talk to the men as a group, and to several of the employees individually.

I also stated the company position in this matter, asked the men not to leave, to please return to their jobs, and the ones that I was able to address individually, before they all filed out, I also asked them if they would please do the same thing, go back and go to work, and not simply pull a wildcat and walk out on me, and violate their contract, and be out of work.

In the final analysis they just about all walked out, I believe. In fact, I think all of the buffers that afternoon walked out at Mr. Harsch's direction.

Trial Examiner: At what time did they walk out?

The Witness: I think somewhere around five-thirty in the afternoon.

Trial Examiner: And they reported for work at what time?

The Witness: Three-thirty.

Q. (By Mr. Corenman) Now, when they walked out did they punch their time cards out?

A. I believe they did.

Q. Now, you mentioned something about the fact that the men, in walking off their jobs, were violating a company rule about leaving the premises without the permission of supervision, is that correct?

A. Yes.

Testimony of Charles E. Morley

Mr. Corenman: I will ask the reporter to identify as General Counsel's Exhibit 8 a notice dated March 1, 1951.

(Thereupon, the document above referred to was marked General Counsel's Exhibit No. 8 for identification.)

Q. (By Mr. Corenman) Mr. Morley, I now hand you General Counsel's Exhibit 8. Is that the notice you referred to that the men would be violating a company rule if they left the plant that day without your permission?

A. This appears to be a photostat of it, yes.

Mr. Corenman We offer in evidence General Counsel's Exhibit 8.

* * * * * * *

84

Q. Do you know whether or not the blower system went out of order on Friday, August 28, 1953, after the dinner hour?

A. I understand that on Friday—let's see, that would be what—the 28th or 29th?

Mr. Langs: The 31st was on a Monday.

Q. (By Mr. Corenman) The 28th would be a Friday.

A. At the time I wasn't in the plant, but I understand that afternoon, Friday afternoon, that a fire occurred in the switch box and shut the blower system down.

Again, I understand, as a result of that the men on that shift were sent home when the blower stopped.

Q. So would I be correct in stating that when the blower was out of order the men customarily were sent home?

A. When the blower wasn't running.

Q. That's right. Now, you stated previously that the afternoon buffers walked out on the afternoon of August 31st around five p.m.

Testimony of Charles E. Morley

Now, let's take the next day, September 1, 1953. Do you know whether or not the day buffers reported for work as usual on September 1st?

A. Yes, I believe they did.

Q. And can you state whether or not you received any complaints from any of the day buffers or from the bargaining committee concerning an inefficiency in the blower system?

A. I didn't receive any complaints from any of the individual buffers, to my knowledge. The committee of course was aware of the wildcat strike of the night before, and naturally came in to discuss that and ask if I knew anything about whether the blower was working correctly and so forth. I explained to them following the Friday you are talking about, the damage had been repaired on the following Saturday by the maintenance crew who came in and as far as I knew, it was working in exactly the same manner that it always worked, the way it should work.

Q. And you determined it was working good by holding a lighted cigar to some of the blower pipes, is that correct?

A. I done that the previous night. In other words, I didn't hold a lighted cigar to it. I blew smoke into the air and the units picked it up, which we would expect them to do if they were working correctly.

Q. You assume that because the units picked up the cigar smoke that they were in good working order, is that correct?

A. They picked it up very readily and everything seemed to be in exactly the same condition that it always was when it was working normally.

Q. Now, did you make those tests again on Tuesday morning, September 1st, with the cigar?

A. I couldn't say whether I did or not.

Testimony of Charles E. Morley

Q. Did you make any tests at all on Tuesday, September 1st?

86

A. I think a considerable portion of the day was spent with the committee haranguing about the wildcat strike of the night before.

I think I was fairly busy with that during the day. Also during the day, however, that day I did get hold of the maintenance crew and asked them to very carefully check this unit so as to determine if there was anything out of the normal, as far as this unit was concerned.

Q. Was that the first time you had contacted the maintenance unit, was on Monday—Tuesday, September 1st, to ask them to check the blower system?

A. That is correct, because our maintenance crew normally works only days, and they weren't there at the time this wildcat strike occurred.

Q. So on Monday afternoon whatever checking was done on the blower system you endeavored to do that checking yourself? And that was by using the lighted cigar tests, is that right?

A. That is correct. Also, after these various buffers walked out on this wildcat strike we brought other employees into the buffing room, and they operated for the balance of the shift, and everything seemed to be very normal.

Q. Now, you say things seemed to be normal the balance of the shift. What do you mean by "things seemed to be normal"?

A. Everything was running as usual.

Q. How many employees did you bring into the buffing room?

87

A. I couldn't say specifically, without checking the record, but I think it was probably two or three.

Q. It was only two, was it not? Two?

A. It may have been only two. As I say, I couldn't be positive without checking the time cards, and so forth.

Q. These were two employees who were relatively new, probationary employees? Is that right?

A. That, again, I couldn't say without checking the records. I don't recall which individuals were brought into the buffing room.

Q. How do you know any individuals were brought into the buffing room Monday afternoon?

A. I happen to know that because I know the work was turned out Monday afternoon, and also I instructed the superintendent, after the buffers had walked out, to put somebody on these jobs, and I know the jobs were run because I was checking the production records the following day.

Q. Now, just a minute. Just a minute. Who was called into the buffing room to work on Monday afternoon after the regular buffers walked out? Who did you bring in, do you know?

A. I could very easily determine it for you.

Q. Could I help you out if I told you one of them was a young man by the name of Kammer?

A. I don't know, sir, without checking the record, because as many employees as we have, I can't remember without checking

the record.

Q. Do you know what machine they were put on?

A. Yes, they were put on an automatic machine.

Q. These were green employees? They were not buffers, were they? They were not regular experienced polishers and buffers, were they?

A. Again I couldn't tell you without determining who came in. We had a number of employees in the plant who

had been transferred from one department to another on a transfer system that we operated under the contract on. Whether or not these employees previously worked in the buffing room or not I couldn't tell without checking the record.

Q. At any rate, it is your recollection that you did request that about two employees be brought into the buffing room to work that afternoon on the automatic machines?

A. That is correct, because I know we needed shells which were polished on there, to be in a position to operate the next day, and I instructed them to run those machines so we could have the shells so that we could operate the next day.

Q. Now, on September 1st will you state whether or not your maintenance men who you had checking the blower system eventually found out what the trouble was?

A. We operated normally all day on that Tuesday, and along towards the end of the shift they had, after combing through the entire plant to see whether anything was wrong or not, they

run out of any ideas to determine that anything was wrong, and I suggested to them at the change of the shifts they reverse the wiring on the fan motor to see if that would make any difference at all in the operation.

Q. Who made the repair on reversing the wires on the motor, do you know?

A. There again I am not positive. There are two men in the maintenance department, and just which one reversed them or who worked—I believe they both worked on it, but who did the physical change, I don't know.

Q. Do you know their names?

A. Yes. A man named Harry King, and a man named Kulka.

(p. 21 a)

GROUP POLICY NO.

Life .....
LL .....
GS .....
H. 15760

ÆTNA LIFE INSURANCE COMPANY
GROUP DIVISION

EMPLOYER'S NOTICE REQUESTING CANCELLATION OF INSURANCE

Notice is hereby given the Ætna Life Insurance Company of Hartford, Connecticut, to amend, in accordance with the terms of the policy or policies on the lives of the employees listed below.

FOLLOW THESE INSTRUCTIONS CAREFULLY

Column A Use only if employment terminated, giving actual date insurance was discharged or quit.

Columns A and B Use both if employee laid off. Show last day of month in Column A and end of period for which premium is collected in Column B.

Use both if employer requests insurance cancelled while still employed. Have him execute his own request, and then complete Column A. "Next" indicating in Column B any part of the period covered by employer's last contribution.

Important Notice of insurance termination in accordance with the terms of the policy should be given within 31 days from the date entered in Column A.

Do not list DEPENDENTS of employees under Life or LL policies if claim is being filed under those policies.

DATE OF NOTICE October 10, 1958

EMPLOYER KNIGHT-[illegible] MANAGER

ACCOUNT.....
(IF ANY, APPEARS IN UPPER RIGHT CORNER OF EMPLOYER'S ...)

LIST IN CANCELLATION DATE ORDER NAME	POLICY NO.	LIFE	AMOUNT OF INSURANCE: ACCIDENTAL DEATH	DISABILITY	HOSPITAL: EMPLOYEE ONLY NUMBER OF	HOSPITAL: DEPENDENTS NUMBER OF	DATE INSURANCE TERMINATED	PREMIUM REFUND: LIFE	PREMIUM REFUND: ACCIDENTAL DEATH
Frank Gebuler	167	1000			6		10/16/58		
Helen Robeson	246	1000			6				
Glenn Basnett	522	1000			6				
Violet Barber	88	1000			6				
Edmund Baumgarten	56	1000			6				
Delores Collins	386	1000			6				
Dan Colling	336	1000			6	3			
Mary Collins	494	1000			3				
Harold Chaltron	22	1000			6				
Ethel Chaltron	253	1000			6				

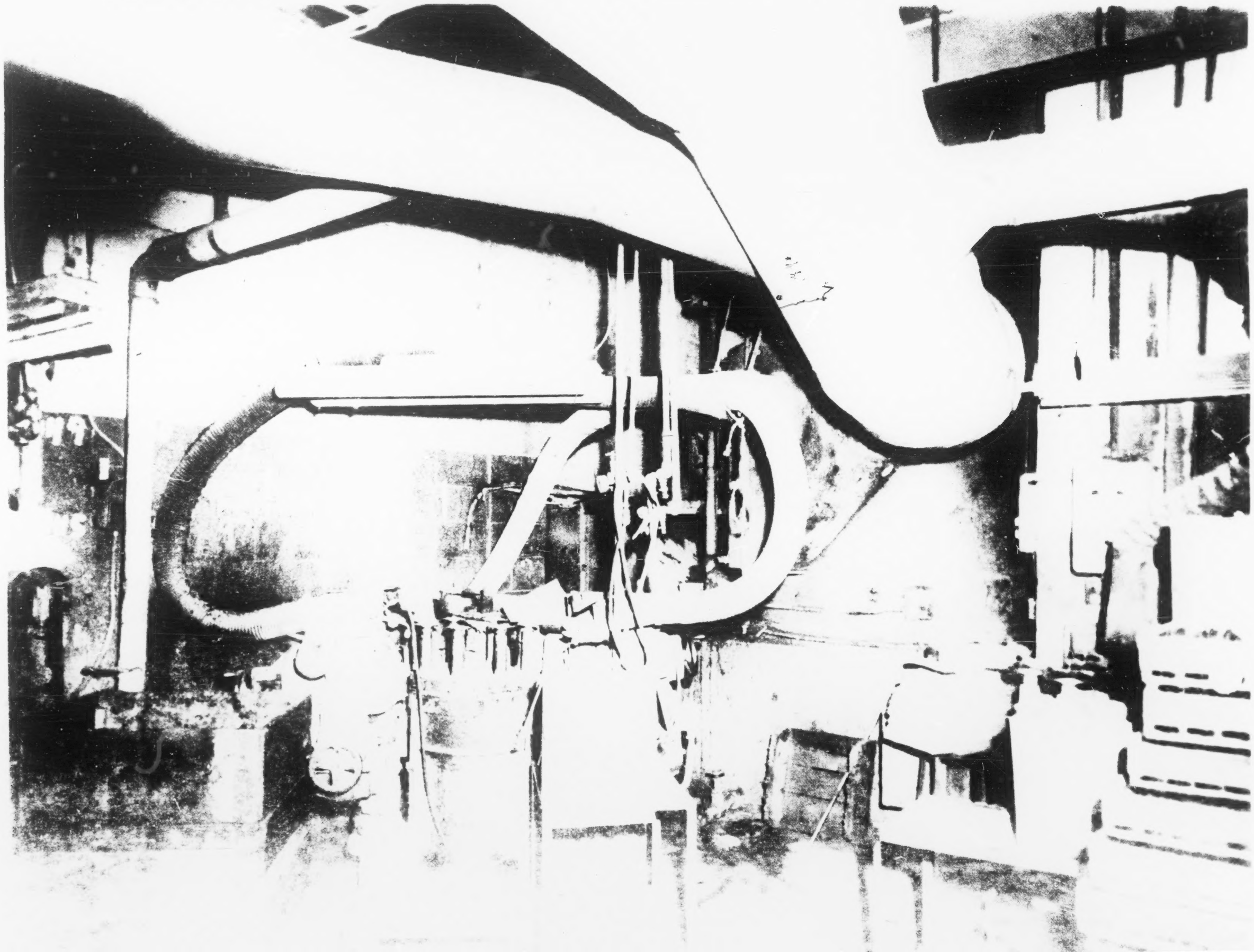
HOME OFFICE USE	LIFE	A. D. & D.	DISABILITY	LL	GS
NO. OF LIVES					
SETTLEMENT					
EFFECTIVE					

PREMIUM REFUND: DISABILITY AMOUNT	PREMIUM REFUND: DISABILITY REFUND	PREMIUM REFUND: HOSPITAL REFUND	PREMIUM REFUND: LL AMOUNT	PREMIUM REFUND: LL REFUND	PREMIUM REFUND: GS AMOUNT	PREMIUM REFUND: GS REFUND

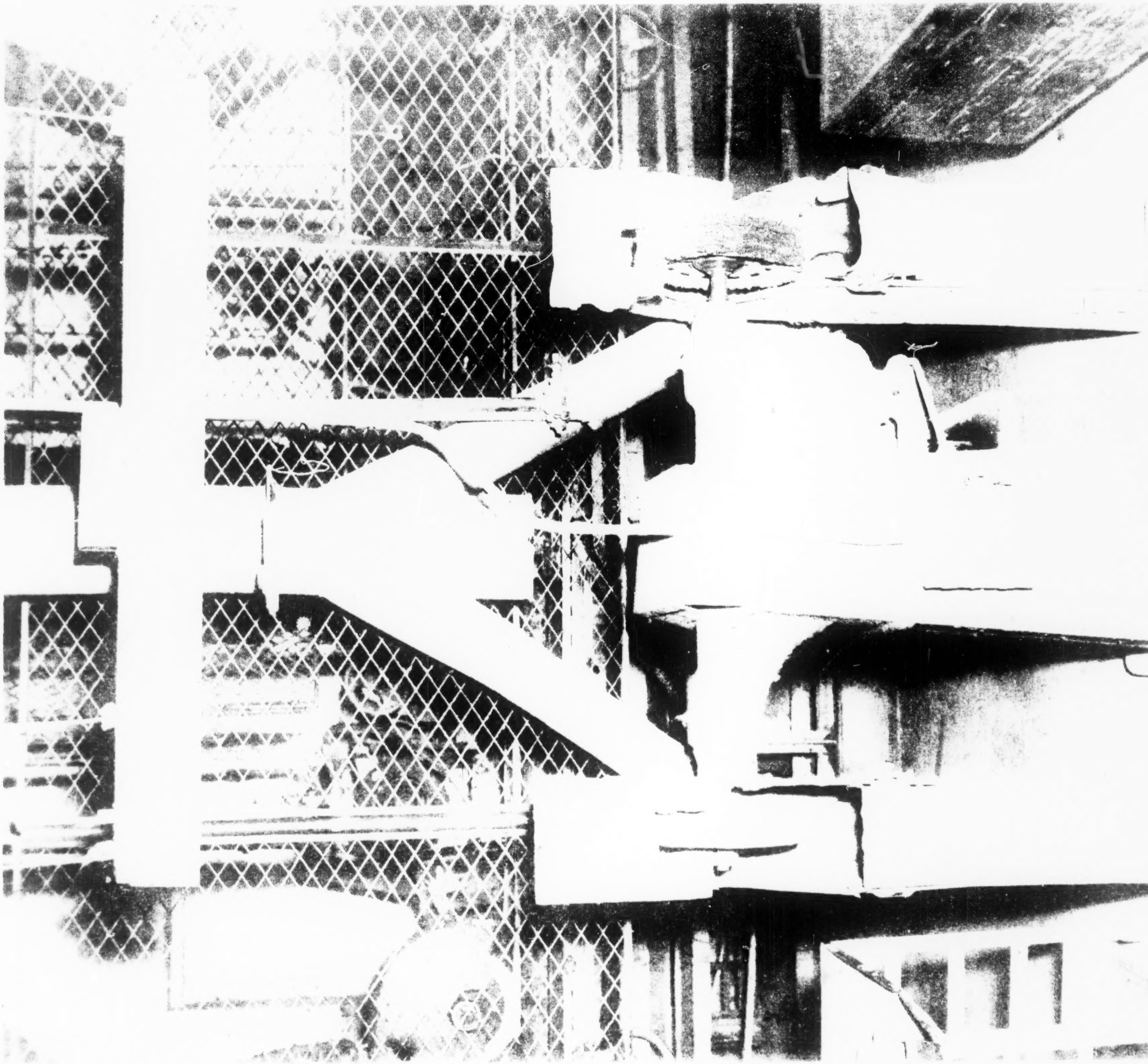
36482

Ex. # 13-A
Clarence
Mrs.

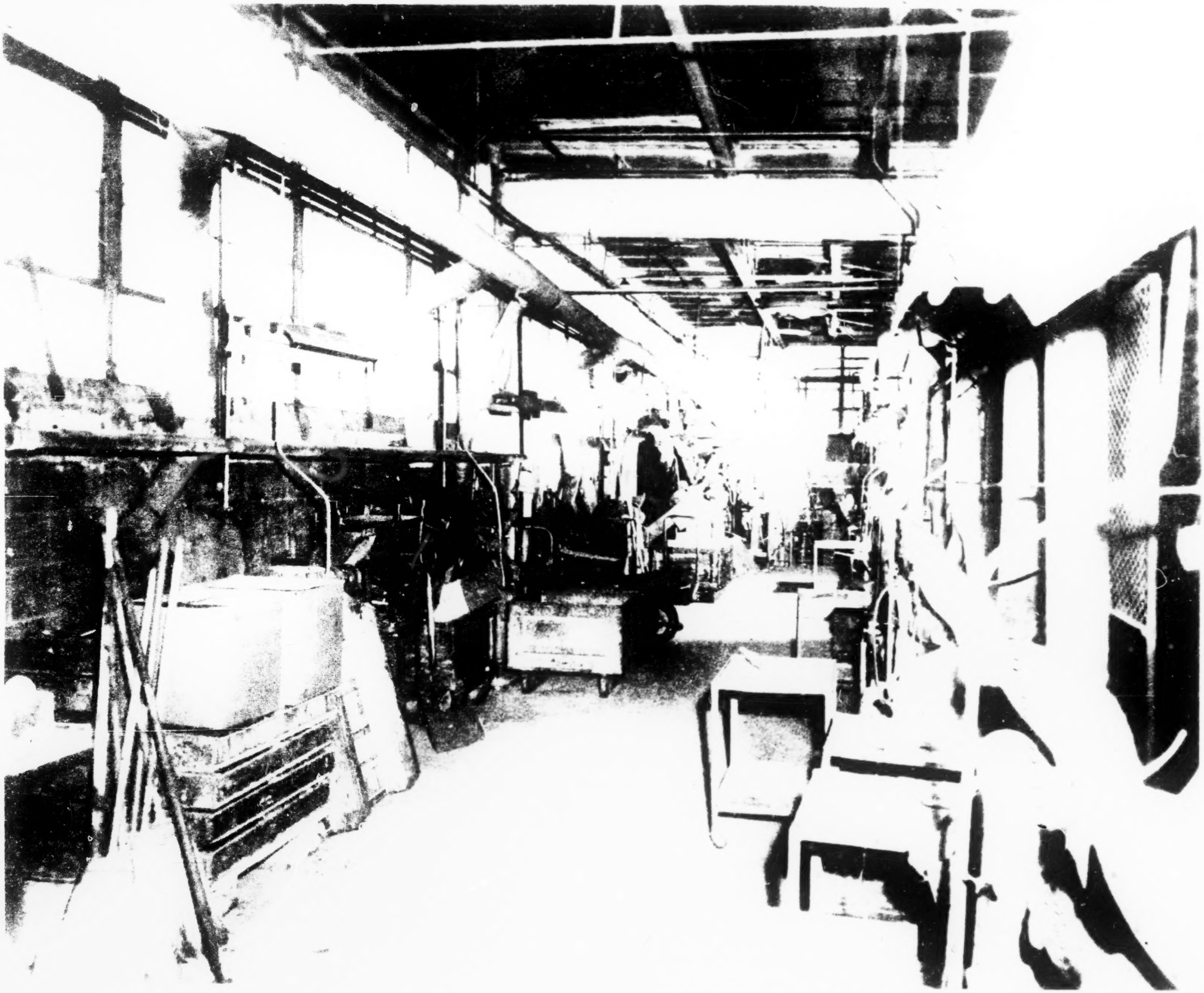
GENERAL COUNSEL'S EXHIBIT No. 25



GENERAL COUNSEL'S EXHIBIT No. 26



GENERAL COUNSEL'S EXHIBIT No. 27



John F. Langs

WB Form 038.51-1
(Formerly 1004)

UNITED STATES OF AMERICA

UNITED STATES DEPARTMENT OF COMMERCE
WEATHER BUREAU

RESPONDENT'S EXHIBIT No. 3 (SHEET 1)

Station Detroit, Michigan *Date* August 16, 1954

As the custodian of the records of the U. S. Weather Bureau, filed at 1013 Federal Bldg., Detroit, Mich., *I hereby certify that the attached is a true copy therefrom.*

Attachment: Local Climatological Data for Detroit, Michigan for August 1953 and September 1953, incl. supplement.

NATIONAL LABOR RELATIONS BOARD
Case No. 2-CA-995
R OFFICIAL EXHIBIT NO. 3
Identified
Received
Rejected
By Knight Morley
8/17/54 Reporter mds

W. W. Oak

Meteorologist in Charge.

Commerce-Weather Bureau, Washington, D. C. 2

WB Form 038.51-1

U. S. DEPARTMENT OF COMMERCE, WEATHER BUREAU

LOCAL CLIMATOLOGICAL DATA

(Formerly Station Meteorological Summary)

DETROIT, MICHIGAN (CITY AIRPORT) — AUGUST, 1953.

Latitude 42 ° 24 ′ N. — Longitude 83 ° 00 ′ W. — Elevation (ground) 619 Feet. — EASTERN Standard time used

Date	Temperature (°F) Maximum	Minimum	Average	Departure from normal	Degree days (base 65°)	Precipitation Total (Water equivalent) (In.)	Snow, Sleet, Hail (In.)	Snow, Sleet, Hail or Ice on ground at 7:30 AM (In.)	Wind Prevailing direction	Average speed (m. p. h.)	Fastest mile Speed (m. p. h.)	Fastest mile Direction	Sunshine Total (hours and minutes)	Sunshine Percent of possible	Sky cover Sunrise to sunset (tenths)	Sky cover Midnight to midnight (tenths)	Thunderstorm or distant lightning	Weather restricting visibility to ¼ mile or less	20	21	22	23	Date
1	84	70	77	+4	0	.60	0	0	SE	7.3	14	W	8:08	56	8	9	T						1
2	76	68	72	-1	0	.01	0	0	E	8.3	17	NNW	3:40	25	9	9							2
3	77	68	73	0	0	T	0	0	E	10.0	17	E	7:34	53	7	7							3
4	89	69	79	+6	0	.14	0	0	SE	10.5	22	N	5:44	40	9	10	T						4
5	75	61	68	-5	0	T	0	0	N	12.0	19	NE	6:42	47	8	7							5
6	79	59	69	-4	0	0	0	0	E	6.3	13	E	10:04	70	6	4							6
7	84	64	74	+1	0	.14	0	0	SSE	6.0	22	WNW	9:00	63	7	7	TDL						7
8	79	63	71	-2	0	.05	0	0	N	7.7	14	NW	8:58	63	6	6	DL						8
9	79	61	70	-3	0	T	0	0	N	9.7	18	NNE	6:25	45	7	5							9
10	81	58	70	-2	0	0	0	0	NNW	8.2	15	N	14:08	100	0	0							10
11	83	58	71	-1	0	0	0	0	S	5.7	12	S	12:13	87	2	1							11
12	88	67	78	+6	0	0	0	0	S	9.1	16	NW	6:46	48	8	6							12
13	85	65	75	+3	0	0	0	0	SE	5.6	11	SSE	13:18	95	2	2							13
14	89	65	77	+5	0	0	0	0	W	8.9	22	W	13:43	98	0	1							14
15	78	62	70	-2	0	0	0	0	N	9.4	17	N	8:26	61	5	5							15
16	81	60	71	-1	0	T	0	0	NW	9.2	21	NW	9:32	69	6	6							16
17	75	56	66	-5	0	0	0	0	N	9.7	19	N	12:45	92	1	1							17
18	76	52	64	-7	1	0	0	0	N	7.5	20	N	13:47	100	0	0							18
19	77	55	66	-5	0	0	0	0	N	7.9	18	N	13:29	98	2	1							19
20	84	56	70	-1	0	0	0	0	NW	4.7	10	N	13:01	95	2	1							20
21	85	60	73	+2	0	0	0	0	N	4.6	11	NNW	10:38	78	3	2							21
22	87	64	76	+5	0	0	0	0	WNW	4.4	12	N	12:40	93	3	4							22
23	86	63	75	+5	0	0	0	0	N	6.0	15	NNE	12:52	92	3	2							23
24	85	63	74	+4	0	0	0	0	N	6.4	13	NNW	13:22	99	2	2							24
25	92	64	78	+8	0	0	0	0	W	7.1	14	W	13:19	99	2	2							25
26	96	71	84	+14	0	0	0	0	WNW	8.5	17	W	13:16	99	1	1							26
27	95	69	82	+12	0	0	0	0	S	7.1	15	WNW	12:18	92	3	6							27
28	96	67	82	+13	0	0	0	0	WNW	7.4	18	WNW	12:46	96	1	1							28
29	96	71	84	+15	0	0	0	0	SSW	7.1	15	SSW	13:06	99	1	0							29
30	97	71	84	+15	0	.12	0	0	SW	7.9	24	WNW	8:08	61	6	4	DL						30
31	97	71	84	+15	0	.46	0	0	W	4.8	26	WSW	9:57	75	4	3	TDL						31
Sum	2651	1971	—	—	—	1.52	0	—	—	235.0	—	—	329:06	—	129	115	—	—					Sum
Avg.	84.9	63.6	—	—	—	—	—	—	—	7.6	Fastest	Dir.	Possible	%	4.2	3.7	—	—					Avg.
										Misc.	26	WSW	429:45	77	—	—	—	—					Misc.

T in columns 7, 8, and 9 indicates amount too small to measure.

TEMPERATURE: (°F)

Average monthly	74.5
Departure from normal	+3.0
Highest 97 on	30,31
Lowest 52 on	18
Number of days with —	
Max. 32° or below	0
Max. 90° or above	7
Min. 32° or below	0
Min. 0° or below	0

HEATING DEGREE DAYS (base 65°):

Total this month	1
Departure from normal	-14
Seasonal total (since July 1)	6
Seasonal departure from normal	-17

BAROMETRIC PRESSURE (In.)

Avg. station (elev. 730 feet, m.s.l.)			29.291
Highest sea level	30.25	on	22
Lowest sea level	29.69	on	4

PRECIPITATION: (In.)

Total for the month			1.52
Departure from normal			-1.10
Greatest in 24 hours	0.61	on	1-2
Snow, Sleet and Hail —			
Total for the month	0		
Greatest in 24 hours	0	on	
Greatest depth on ground	0	on	
Dates of — Hail	0		
Sleet 0	Glaze	0	

Symbols used in columns 18-19

A = Hail
BS = Blowing snow
DL = Distant lightning
D = Dust
E = Sleet
F = Fog
H = Haze
K = Smoke
L = Drizzle
N = Sand
R = Rain
S = Snow
T = Thunderstorm
ZL = Freezing drizzle
ZR = Freezing rain

THIS WAS THE HOTTEST AUGUST SINCE 1947 AND THE DRIEST SINCE 1950. THE FIRST 20 DAYS AVERAGED 0.7° BELOW NORMAL BUT THE LAST 11 DAYS AVERAGED 9.8° ABOVE. MAXIMUM TEMPERATURES WERE 95° OR HIGHER ON THE LAST 6 DAYS OF THE MONTH, AND 90° OR HIGHER ON THE LAST 7 DAYS. IN AUGUST, 1944, THERE WERE 13 DAYS WITH 90° OR HIGHER AND AUGUST, 1947, HAD 14 DAYS WITH 90° OR HIGHER. NO MEASURABLE RAIN FELL FROM THE 9TH THROUGH THE 29TH.

HOURLY PRECIPITATION

Date	A. M. Hour ending at 1	2	3	4	5	6	7	8	9	10	11	12	P. M. Hour ending at 1	2	3	4	5	6	7	8	9	10	11	12	Date
1																					.06	.26	.20	.08	1
2	.01	T	T	T							T	T	T										T		2
3								T				T	T												3
4					.05	.02	.01	.01							.05	T								T	4
5	T	T	T	T					T																5
6																									6
7																			.11	.02	T			.01	7
8	.05	T																							8
9														T		T									9
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31																	.40	T	.04	.03					31

Subscription Price: 50 cents per year including annual summary if published. Separate copies, monthly 5 cents each, annuals 10 cents each. Checks and money orders should be made payable to the Treasurer of the United States. Remittances and correspondence regarding subscriptions should be sent to the Superintendent of Documents, Government Printing Office, Washington 25, D. C.

W.R.P.C., Kansas City, Mo., -- 9-8-53 -- 650

RESPONDENT'S EXHIBIT No. 3 DIET 7 82

U. S. DEPARTMENT OF COMMERCE, WEATHER BUREAU

(SHEET 3)

LOCAL CLIMATOLOGICAL DATA

DETROIT MICHIGAN (Willow Run) (Air Terminal) AUGUST 1953

Latitude 42 ° 14 ' N. Longitude 83 ° 32 ' W. Elevation (ground) 722 ft. EASTERN Standard time used

Date	Temperature (°F) Maximum	Minimum	Average	Departure from normal	Degree days (base 65°)	Precipitation Total (Water equivalent) (In.)	Snow, Sleet, Hail (In.)	Snow, Sleet, Hail or Ice on ground at 0730 AM (In.)	Wind Prevailing direction	Average speed (m. p. h.)	Fastest mile Speed (m. p. h.)	Fastest mile Direction	Sunshine Total (hours and minutes)	Sunshine Percent of possible	Sky cover Sunrise to sunset (tenths)	Sky cover Midnight to midnight (tenths)	Thunderstorm or distant lightning	Weather restricting visibility to ½ mile or less					Date
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24
1	90	65	78	+5	0	1.26	0	0	SSW	8.5	28	NNE			8	9	T						1
2	76	67	72	-1	0	0.10	0	0	ESE	10.3	17	SE			10	10							2
3	80	67	74	+1	0	T	0	0	ESE	12.3	21	ESE			9	8	DL						3
4	87	67	77	+4	0	0.74	0	0	W	11.2	24	WNW			9	9	TDL						4
5	75	60	68	-5	0	T	0	0	NNE	13.8	19	NNE			8	7							5
6	83	58	71	-2	0	0	0	0	SE	9.0	24	SSE			6	5							6
7	85	63	74	+1	0	0.45	0	0	NE	7.4	22	NW			8	8	T						7
8	77	61	69	-4	0	0.02	0	0	NNW	8.4	15	NNW			6	6	TDL						8
9	79	60	70	-3	0	0	0	0	N	9.4	19	NNW			8	5	DL						9
10	81	57	69	-3	0	0	0	0	NNW	7.9	15	NNW			3	1							10
11	85	58	72	0	0	0	0	0	SW	6.7	14	SSE			1	1							11
12	85	65	75	+3	0	T	0	0	SW	9.2	16	SW			6	5							12
13	87	64	76	+4	0	0	0	0	NW	5.9	10	NW			2	1							13
14	88	62	75	+3	0	0	0	0	WSW	8.5	15	WSW			1	1							14
15	80	61	71	-1	0	T	0	0	NNW	7.8	13	NW			6	5							15
16	82	59	71	0	0	0	0	0	NW	10.3	19	NW			6	5							16
17	74	54	64	-7	1	0	0	0	NNW	8.8	15	N			1	1							17
18	76	52	64	-7	1	0	0	0	NNW	8.1	16	NNW			2	1							18
19	78	55	67	-4	0	0	0	0	N	9.0	15	NNW			1	1							19
20	82	54	68	-3	0	0	0	0	NW	6.5	12	NW			1	0							20
21	86	60	73	+2	0	0	0	0	NW	5.8	11	NNW			1	1							21
22	86	62	74	+4	0	0	0	0	WNW	6.6	16	NNW			1	2							22
23	87	62	75	+5	0	0	0	0	NNW	6.5	11	N			1	1							23
24	86	62	74	+4	0	0	0	0	N	6.5	10	NW			3	3							24
25	92	63	78	+8	0	0	0	0	SW	7.3	12	SW			2	4							25
26	95	66	81	+11	0	0	0	0	W	7.7	16	W			0	1							26
27	96	67	82	+12	0	0	0	0	WSW	7.3	15	WSW			6	5							27
28	96	66	81	+12	0	0	0	0	WNW	6.7	15	WNW			1	2							28
29	97	66	82	+13	0	0	0	0	SW	7.2	16	SW			1	0							29
30	95	69	82	+13	0	.07	0	0	WSW	9.0	17	NW			6	5	DL						30
31	96	70	83	+14	0	.21	0	0	WSW	4.7	20	ESE			5	4	TDL						31
Sum	2642	1922	—	—	—	2.85	0	—	—	2543		—		—	129	117	—	—					Sum
Avg.	85.2	62.0	—	—	—	—	—	—	—	8.2	Fastest	Dir.	Possible	%	4.2	3.8	—	—					Avg.
										Misc.	28	NNE			—	—	—	—					Misc.

T in columns 7, 8, and 9 indicates amount too small to measure.

TEMPERATURE: (°F)

Average monthly			73.6
Departure from normal			+2.5
Highest	97	on	29th
Lowest	52	on	18th
Number of days with —			
Max. 32° or below			0
Max. 90° or above			8
Min. 32° or below			0
Min. 0° or below			0

HEATING DEGREE DAYS (base 65°):

Total this month	2
Departure from normal	-12
Seasonal total (since July 1)	6
Seasonal departure from normal	-14

BAROMETRIC PRESSURE (In.)

Avg. station (elev. 777 feet, m.s.l.)			29.232
Highest sea level	30.27	on	21st
Lowest sea level	29.70	on	4th

PRECIPITATION: (In.)

Total for the month	2.85		
Departure from normal	+0.14		
Greatest in 24 hours	1.33	on	1,2
Snow, Sleet and Hail —			
Total for the month	0		
Greatest in 24 hours	-	on	-
Greatest depth on ground	-	on	-
Dates of — Hail	0		
Sleet 0	Glaze 0		

Symbols used in columns 18-19

A = Hail
BS = Blowing snow
DL = Distant lightning
D = Dust
E = Sleet
F = Fog
H = Haze
K = Smoke
L = Drizzle
N = Sand
R = Rain
S = Snow
T = Thunderstorm
ZL = Freezing drizzle
ZR = Freezing rain

Temperatures averaged near normal until the 21st and then stayed well above normal with the daily maximum going to 92 or higher to the end of the month. This put the monthly average well above normal.

Although this months precipitation was slightly above normal the total amount fell in the first eight and the last two days. The three straight weeks with no rainfall were quite damaging. There was only one period of excessive precipitation and that was on the first when .82 fell in one hour and 1.33 in a 24 hour period.

*Highest observed one-minute wind speed and its direction.

HOURLY PRECIPITATION

Date	A. M. Hour ending at 1	2	3	4	5	6	7	8	9	10	11	12	P. M. Hour ending at 1	2	3	4	5	6	7	8	9	10	11	12	Date
1		.03	T					T														.38	.82	.03	1
2	T	.02	.03	.01	.02		T	.01	.01		T											T			2
3							T																		3
4					.06		.03	.13								.52									4
5	T								T																5
6																									6
7																	T	.03	.01				T	.41	7
8	.02																								8
9																									9
10																									10
11																									11
12																T									12
13																									13
14																									14
15																				T					15
16																									16
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24																									24
25																									25
26																									26
27																									27
28																									28
29																									29
30													T			.07	T	T							30
31													T			.23			T	T					31

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Supplement
(Formerly Special Meteorological Summaries)

U. S. DEPARTMENT OF COMMERCE, WEATHER BUREAU

LOCAL CLIMATOLOGICAL DATA

DETROIT, MICHIGAN
CITY AIRPORT
AUGUST 1953

(Based on one month's record)

A TEMPERATURE AND WIND SPEED --- RELATIVE HUMIDITY OCCURRENCES (HOURLY OBSERVATIONS):

WIND	0-4 M.P.H.						5-14 M.P.H.						15-24 M.P.H.						25 M.P.H. AND OVER						TOTAL OBS.
REL HUMID. / TEMP. (°F)	UNDER 30	30-49%	50-69%	70-79%	80-89%	90-100%	UNDER 30	30-49%	50-69%	70-79%	80-89%	90-100%	UNDER 30	30-49%	50-69%	70-79%	80-89%	90-100%	UNDER 30	30-49%	50-69%	70-79%	80-89%	90-100%	
99/95		1					7	4						1											13
94/90							15	13	1				1							1					31
89/85		1	1				1	33	5					1	2										44
84/80		6	3	1				63	25	3				3	1	1									106
79/75		3	13	2	1			36	52	9	6			3	1	1									127
74/70		2	24	10	11	3		24	54	31	14	10		5	2	1									191
69/65		2	5	16	11	10		3	15	22	31	8		2		1									126
64/60			7	3	9				7	16	20	8					1								71
59/55			2	3	5	2				12	5	2													31
54/50										3	1														4

B WIND DIRECTION AND SPEED OCCURRENCES:

DIRECTION	HOURLY OBSERVATIONS OF WIND SPEED (IN MILES PER HOUR)									TOTAL	AV. SPEED
	0-3	4-7	8-12	13-18	19-24	25-31	32-38	39-46	47 OVER		
N	11	41	53	26	1					132	8.9
NNE	3	9	16	4						32	8.3
NE	4	5	4							13	6.2
ENE	2	7	2							11	5.5
E	5	22	11	1						39	6.7
ESE	3	10	12	3						28	8.1
SE	6	19	13							38	6.1
SSE	3	15	7	1						26	6.8
S	6	34	28	1						69	7.1
SSW	1	17	11	4						33	7.8
SW	6	19	13	2						40	7.0
WSW	1	15	9	6						31	8.4
W	5	29	23	4						61	7.4
WNW	6	15	27	1	1	1				51	8.4
NW	3	41	26	11						81	7.9
NNW	3	14	22	3						42	8.4
CALM	17									17	0.0
TOTAL	85	312	277	67	2	1				744	7.6

C HOURLY OCCURRENCES OF PRECIPITATION AMOUNTS:

INTENSITIES	FREQUENCY OF OCCURRENCE FOR EACH HOUR OF THE DAY																								MID TO MID	INTENSITIES
	A.M. HOUR ENDING AT												P.M. HOUR ENDING AT													
	2	3	4	5	6	7	8	9	10	11	NOON	1	2	3	4	5	6	7	8	9	10	11	MID		
TRACE	1	3	2	2				1	1		1	2	2	1		3	1	1			1		1	1	4	TRACE
.01 IN	1						1	1															1	1	.01 IN
.02 TO .09 IN	1				1	1								1					1	2	1		1	1	.02 TO .09 IN
.10 TO .24 IN															1				1			1		3	.10 TO .24 IN
.25 TO .49 IN																1					1			1	.25 TO .49 IN
.50 TO .99 IN																								1	.50 TO .99 IN
1.00 TO 1.99 IN																									1.00 TO 1.99 IN
2.00 IN AND OVER																									2.00 IN AND OVER
TOTAL	3	3	2	2	1	1	1	2	1		1	2	2	1	1	4	2	1	2	2	2	1	2	3	11	TOTAL

D CEILING --- VISIBILITY OCCURRENCES (HOURLY OBSERVATIONS):

VISIBILITY (MILES)	CEILING (FEET)									
	0	100-200	300-400	500-900	1000-1900	2000-2900	3000-4900	5000-9500	OVER 9500	TOT.
0 TO 1/8										0
1/8 TO 1/4										0
1/2 TO 1										0
1 TO 2 1/2							4	1	9	14
3 TO 6				5	10	5	14	11	243	288
7 TO 15				2	16	11	21	26	366	442
20 TO 30										0
35 OR MORE										0
TOTAL				7	26	16	39	38	618	744

E HOURLY OCCURRENCES OF SKY COVER, WIND, AND RELATIVE HUMIDITY:

HOUR OF DAY	CLOUDS SCALE - 10			WIND SPEED (MPH)							RELATIVE HUMIDITY (%)									HOUR OF DAY
	0-3	4-7	8-10	0	1-3	4-7	8-12	13-18	19-24	25-38	OVER 38	0-19	20-29	30-39	40-49	50-59	60-69	70-79	80-89	90-100	
00	20	1	10	2	7	17	4	1									8	9	12	2	00
01	23	1	7	3	5	17	5	1								1	10	6	11	3	01
02	21	3	7	2	3	22	4									1	5	9	13	3	02
03	23	1	7	1	6	19	5									1	1	14	10	5	03
04	21	3	7	1	4	19	7									1	2	13	8	7	04
05	18	4	9	1	3	22	4	1								3	1	8	12	7	05
06	17	6	8	1	5	15	9	1								2	1	11	11	6	06
07	18	5	8	1	5	13	10	2								4	7	11	5	4	07
08	20	4	7		4	10	16	1							5	8	9	4	5		08
09	19	5	7	1	1	10	16	3						4	8	7	6	2	4		09
10	21	4	6		1	11	14	5					1	5	10	7	4	3	1		10
11	17	7	7		2	8	14	7					1	8	13	1	4	3	1		11
12	14	9	8			4	20	6	1				3	8	12	2	3	2	1		12
13	13	7	11			6	16	8		1			5	11	7	4	3		1		13
14	10	13	8			8	18	5					4	11	7	5	3	1			14
15	10	11	10			7	20	4					3	13	6	3	4		2		15
16	11	11	9		1	5	16	8	1				4	12	5	5	4	1			16
17	12	9	10			9	18	4					2	11	7	5	4	1	1		17
18	17	5	8		2	7	18	4					1	8	10	5	5		2		18
19	17	6	8		2	15	11	3						3	9	9	7	1	1	1	19
20	18	6	7		5	16	9	1							10	6	7	6	1	1	20
21	21	4	6		1	22	8								3	8	9	7	3	1	21
22	22	1	8	3	4	15	8	1							1	6	7	11	4	2	22
23	21	4	6	1	7	15	7	1								2	10	12	6	1	23
	424	131	189	17	68	312	277	67	2	1			24	94	113	96	124	135	115	43	

F HOURLY TEMPERATURES (READ ABOUT 20 MINUTES AFTER THE HOUR)

DAY OF MO.	MID.	1 A.M.	2 A.M.	3 A.M.	4 A.M.	5 A.M.	6 A.M.	7 A.M.	8 A.M.	9 A.M.	10 A.M.	11 A.M.	NOON	1 P.M.	2 P.M.	3 P.M.	4 P.M.	5 P.M.	6 P.M.	7 P.M.	8 P.M.	9 P.M.	10 P.M.	11 P.M.	DAY OF MO.
1	75	76	73	73	70	72	71	74	76	77	81	83	84	80	82	84	83	82	81	79	78	74	70	70	1
2	69	70	70	70	69	70	71	72	74	69	70	69	69	70	73	74	75	75	74	74	71	71	71	71	2
3	70	70	70	69	70	69	69	70	72	72	73	71	74	75	76	76	76	76	74	72	71	70	70	70	3
4	70	71	71	71	71	70	71	71	75	77	81	84	88	88	86	79	81	82	83	82	80	79	78	77	4
5	67	64	62	62	62	63	63	63	64	64	64	65	67	70	71	73	74	74	74	71	68	66	64	62	5
6	61	60	61	59	59	59	61	65	70	73	73	76	76	78	78	76	78	76	76	73	72	70	69	69	6
7	68	67	68	67	67	65	64	69	73	78	80	81	83	83	82	83	82	80	68	67	67	68	68	66	7
8	67	65	65	66	65	64	65	65	67	68	70	72	74	74	76	77	79	76	75	72	69	66	65	63	8
9	63	62	61	61	61	63	63	65	66	68	71	73	74	76	77	73	76	75	74	71	69	67	65	64	9
10	63	62	61	59	59	58	60	63	67	71	73	76	77	79	79	80	81	80	79	75	72	69	66	65	10
11	63	61	61	59	58	59	59	66	72	75	78	79	81	82	81	83	83	82	81	76	73	72	70	69	11
12	69	68	68	68	68	68	69	71	74	77	82	83	84	87	85	84	81	80	80	79	77	76	75	73	12
13	73	70	69	68	67	66	66	69	73	77	80	83	83	84	83	84	84	82	80	79	76	74	73	70	13
14	71	71	69	68	67	66	65	70	76	80	81	83	85	87	88	88	88	87	86	83	80	79	79	77	14
15	75	73	70	68	65	63	63	66	69	71	74	74	75	76	77	77	77	77	75	74	73	71	68	70	15
16	66	65	65	64	63	61	61	63	69	72	74	77	77	79	80	81	79	76	77	75	72	68	65	63	16
17	62	60	59	59	57	56	57	60	63	65	68	70	71	72	73	73	72	73	72	70	68	64	64	62	17
18	59	57	56	54	53	52	54	60	63	66	68	70	71	72	75	75	75	74	73	71	68	61	59	60	18
19	60	59	57	57	57	56	55	62	65	68	72	74	74	75	76	75	75	74	74	71	67	65	63	61	19
20	60	58	57	56	56	57	57	61	67	73	74	76	79	80	79	84	81	80	79	76	72	71	67	65	20
21	66	63	63	63	62	62	61	65	72	76	81	82	82	83	81	83	83	79	80	77	74	72	69	70	21
22	67	66	66	66	65	65	64	66	70	74	80	83	83	82	85	85	87	86	80	76	73	72	71	72	22
23	71	70	69	67	65	64	65	67	72	76	80	82	81	83	84	85	84	85	82	77	74	72	71	69	23
24	68	70	67	66	64	63	63	67	72	75	78	80	82	83	85	85	84	85	81	77	74	74	72	72	24
25	70	69	67	67	66	65	65	69	75	79	83	85	87	87	90	92	90	86	85	82	78	76	76	76	25
26	75	74	74	71	72	72	72	75	78	82	86	89	94	93	96	95	94	93	91	86	83	82	79	78	26
27	74	74	72	72	71	71	69	74	80	85	89	91	92	94	93	93	93	92	89	86	84	81	81	77	27
28	76	74	72	70	69	68	67	73	79	86	90	92	94	95	93	93	95	94	92	85	81	79	78	76	28
29	74	76	74	73	72	72	71	75	81	85	89	92	95	96	96	95	94	92	90	87	83	81	80	78	29
30	76	75	73	72	72	72	73	76	81	86	91	94	96	93	97	78	85	84	85	83	81	80	79	79	30
31	79	78	75	74	74	73	74	78	83	85	87	90	93	95	96	95	88	76	75	73	74	72	73	72	31

G 6-HOURLY OBSERVATIONS OF SKY COVER, PRESSURE, PSYCHROMETRIC DATA, AND WIND:

DAY OF MO.	HOUR (LOCAL TIME)	SKY COVER (IN TENTHS)	STATION PRESS. (IN.)	DRY BULB (°F)	WET BULB (°F)	REL. HUM. %	DEW PT. (°F)	WIND DIR.	WIND SPEED	DAY OF MO.	HOUR (LOCAL TIME)	SKY COVER (IN TENTHS)	STATION PRESS. (IN.)	DRY BULB (°F)	WET BULB (°F)	REL. HUM. %	DEW PT. (°F)	WIND DIR.	WIND SPEED	DAY OF MO.	HOUR (LOCAL TIME)	SKY COVER (IN TENTHS)	STATION PRESS. (IN.)	DRY BULB (°F)	WET BULB (°F)	REL. HUM. %	DEW PT. (°F)	WIND DIR.	WIND SPEED	DAY OF MO.	HOUR (LOCAL TIME)	SKY COVER (IN TENTHS)	STATION PRESS. (IN.)	DRY BULB (°F)	WET BULB (°F)	REL. HUM. %	DEW PT. (°F)	WIND DIR.	WIND SPEED
1	01	10	29.43	76	66	61	62	E	3	1	07	10	29.40	74	67	71	64	SSW	10	1	13	10	29.35	80	72	68	69	SE	6	1	19	8	29.27	79	72	69	69	SE	8
2	01	10	29.27	70	69	95	68	S	3	2	07	10	29.31	72	70	90	69	WNW	11	2	13	10	29.39	70	66	82	64	NE	5	2	19	10	29.42	74	67	69	63	ENE	4
3	01	10	29.43	70	62	65	58	E	10	3	07	10	29.48	70	65	79	63	E	9	3	13	9	29.47	75	65	59	60	ESE	16	3	19	0	29.41	72	64	66	60	SE	9
4	01	10	29.32	71	67	83	65	SE	7	4	07	10	29.21	71	70	95	70	SSE	7	4	13	8	29.07	88	77	62	73	WSW	14	4	19	10	29.06	82	74	68	70	NW	17
5	01	10	29.14	64	62	88	61	N	16	5	07	10	29.24	63	60	83	58	N	14	5	13	9	29.31	70	62	65	58	NNE	13	5	19	3	29.36	71	62	63	58	NNE	10
6	01	0	29.41	60	58	86	56	NNE	5	6	07	5	29.43	65	62	82	60	ENE	5	6	13	3	29.42	78	66	51	59	ENE	10	6	19	7	29.39	73	63	58	57	E	4
7	01	3	29.39	67	64	83	62	E	4	7	07	2	29.38	69	65	83	63	NE	3	7	13	10	29.34	83	69	49	62	SSE	10	7	19	10	29.29	67	65	90	64	E	6
8	01	10	29.23	65	63	91	62	ESE	3	8	07	10	29.22	65	63	91	62	WSW	8	8	13	6	29.24	74	63	56	57	NW	9	8	19	1	29.23	72	64	64	59	N	9
9	01	3	29.27	62	60	91	59	NW	5	9	07	10	29.29	65	63	91	62	NNE	9	9	13	8	29.29	76	66	59	61	N	14	9	19	1	29.33	71	65	70	61	N	15
10	01	0	29.37	62	57	72	53	N	9	10	07	0	29.43	63	58	75	55	NNW	13	10	13	1	29.45	79	63	41	53	NW	9	10	19	0	29.45	75	64	53	57	ENE	5
11	01	0	29.49	61	58	83	56	C		11	07	0	29.51	66	59	66	55	ESE	3	11	13	4	29.51	82	66	44	58	WNW	5	11	19	0	29.49	76	66	58	60	S	10
12	01	0	29.49	68	65	86	64	SSE	8	12	07	9	29.49	71	66	77	63	S	8	12	13	8	29.46	87	71	46	63	SW	13	12	19	10	29.45	79	68	58	63	WNW	10
13	01	1	29.48	70	67	85	65	NW	6	13	07	0	29.50	69	65	81	63	NNW	4	13	13	5	29.49	84	67	41	58	SE	7	13	19	2	29.42	79	65	47	57	SSE	4
14	01	0	29.42	71	67	80	64	SSW	4	14	07	0	29.42	70	64	74	61	W	3	14	13	0	29.33	87	68	38	58	SW	9	14	19	1	29.26	83	68	46	60	WSW	13
15	01	1	29.32	73	66	69	62	N	11	15	07	0	29.40	66	59	66	55	N	12	15	13	8	29.42	76	59	36	47	N	14	15	19	10	29.40	74	59	41	49	WNW	6
16	01	8	29.41	65	59	69	55	WNW	6	16	07	7	29.43	63	59	80	57	W	4	16	13	10	29.39	79	63	41	54	NW	8	16	19	0	29.37	75	62	48	54	NW	8
17	01	0	29.46	60	58	87	56	N	5	17	07	0	29.53	60	55	69	50	N	7	17	13	1	29.52	72	56	34	42	N	15	17	19	1	29.49	70	56	42	46	N	7
18	01	0	29.51	57	53	76	50	NW	6	18	07	3	29.54	60	55	73	51	NNW	9	18	13	0	29.51	72	55	32	40	N	10	18	19	0	29.47	71	56	37	44	N	4
19	01	0	29.46	59	53	69	49	WNW	4	19	07	1	29.48	62	54	56	47	NW	9	19	13	0	29.46	75	58	33	44	N	10	19	19	0	29.45	71	57	43	47	N	9
20	01	0	29.49	58	53	74	49	WNW	4	20	07	0	29.51	61	55	68	51	NW	6	20	13	3	29.50	80	63	37	52	NW	5	20	19	2	29.49	76	64	52	57	SE	3
21	01	0	29.51	63	60	81	57	C		21	07	0	29.56	65	60	72	56	NNW	4	21	13	4	29.55	83	64	35	52	NW	5	21	19	4	29.53	77	65	54	59	S	5
22	01	0	29.55	66	62	79	59	WSW	3	22	07	3	29.58	66	62	79	59	WNW	3	22	13	3	29.51	82	64	37	53	NNW	8	22	19	4	29.46	76	66	59	61	E	4
23	01	5	29.45	70	66	81	64	N	3	23	07	0	29.48	67	63	79	60	NW	6	23	13	7	29.43	83	65	39	55	NW	9	23	19	3	29.37	77	66	55	60	SE	3
24	01	0	29.40	70	63	58	59	NW	7	24	07	0	29.45	67	62	74	58	N	5	24	13	0	29.44	83	64	35	52	NNW	10	24	19	5	29.42	77	65	52	58	E	4
25	01	0	29.46	69	64	73	60	W	4	25	07	5	29.50	69	61	64	56	W	8	25	13	0	29.49	87	65	29	51	WNW	10	25	19	6	29.45	82	65	39	55	S	8
26	01	1	29.46	74	67	68	63	SW	7	26	07	0	29.49	75	62	50	55	W	5	26	13	2	29.47	93	69	28	55	WNW	12	26	19	0	29.44	86	68	39	58	SSW	6
27	01	0	29.45	74	67	69	64	W	5	27	07	2	29.49	74	65	62	60	C		27	13	10	29.45	94	69	28	56	WNW	11	27	19	8	29.38	86	68	41	59	S	9
28	01	0	29.40	74	67	68	63	W	5	28	07	5	29.42	73	64	63	59	W	5	28	13	0	29.38	95	68	25	53	WSW	14	28	19	0	29.31	85	68	42	59	S	7
29	01	0	29.33	76	64	52	57	SW	8	29	07	0	29.36	75	64	57	58	SSW	6	29	13	1	29.31	96	70	27	57	SW	9	29	19	0	29.27	87	69	42	61	S	8
30	01	0	29.29	75	66	63	61	WSW	4	30	07	5	29.30	76	64	51	57	W	7	30	13	5	29.29	93	72	36	62	WNW	25	30	19	4	29.26	83	72	60	68	WSW	7
31	01	1	29.31	78	72	74	69	C		31	07	0	29.37	78	71	71	68	ENE	3	31	13	4	29.35	95	75	40	66	SW	5	31	19	9	29.38	73	70	86	69	NE	6
	01	3	29.40	68	63	76	60	N	5		07	4	29.43	68	62	73	59	W	7		13	5	29.41	82	66	43	56	NW	10		19	4	29.38	77	65	55	59	S	7

Station pressure in Table G obtained from barometer at 626 feet above mean sea level.

RESPONDENT'S EXHIBIT No. 3

(SHEET 4)

(SHEET 5)

Supplement
(Formerly Special Meteorological Summaries)

U. S. DEPARTMENT OF COMMERCE, WEATHER BUREAU

LOCAL CLIMATOLOGICAL DATA

DETROIT, MICHIGAN
WILLOW RUN AIRPORT
AUGUST 1953

(Based on one month's record)

A TEMPERATURE AND WIND SPEED---RELATIVE HUMIDITY OCCURRENCES (HOURLY OBSERVATIONS):

WIND	0-4 M.P.H.						5-14 M.P.H.						15-24 M.P.H.						25 M.P.H. AND OVER						TOTAL OBS.
REL. HUMID. / TEMP. (°F)	UNDER 30	30-49%	50-69%	70-79%	80-89%	90-100%	UNDER 30	30-49%	50-69%	70-79%	80-89%	90-100%	UNDER 30	30-49%	50-69%	70-79%	80-89%	90-100%	UNDER 30	30-49%	50-69%	70-79%	80-89%	90-100%	
99/95	1	1					10	2					1												15
94/90							17	8						3											28
89/85		1	2				4	26	10				1	2	2	1									49
84/80		6	6					67	17					4	2		1								103
79/75		6	5	1			3	37	39	9	5	1		1	6	1		1				1			116
74/70		3	11	2	4	2		25	53	23	12	4		2	2	3	1	2							149
69/65		2	6	9	5	2		8	20	29	38	26		2	1	2	2								152
64/60			6	3	8	6			7	20	22	18					5								95
59/55			2		1				9	8	8	6													34
54/50										2	1														3

B WIND DIRECTION AND SPEED OCCURRENCES:

DIRECTION	HOURLY OBSERVATIONS OF WIND SPEED (IN MILES PER HOUR)									TOTAL	AV. SPEED
	0 - 3	4 - 7	8 - 12	13 - 18	19 - 24	25 - 31	32 - 38	39 - 46	47 OVER		
N	2	22	19	11						54	8.8
NNE	1	19	14	12	1	1				48	10.0
NE	2	10	15	4						31	8.6
ENE	2	10	10	2						24	8.0
E	3	8	8	4						23	8.0
ESE		7	13	8	1					29	10.9
SE		4	9	5						18	10.2
SSE		6	5	4						15	9.6
S	1	3	4							8	7.3
SSW	1	17	11	1						30	7.6
SW	4	27	23	8	1					63	8.4
WSW	9	35	23	12						79	7.8
W	1	34	14	4	1					54	7.5
WNW	1	34	20	7						62	7.8
NW	5	36	48	4	1					94	8.2
NNW	2	27	47	10						86	8.8
CALM	26									26	0.0
TOTAL	60	299	283	96	5	1				744	8.2

C HOURLY OCCURRENCES OF PRECIPITATION AMOUNTS:

INTENSITIES	FREQUENCY OF OCCURRENCE FOR EACH HOUR OF THE DAY																								MID TO MID	INTENSITIES
	A.M. HOUR ENDING AT												P.M. HOUR ENDING AT													
	1	2	3	4	5	6	7	8	9	10	11	NOON	1	2	3	4	5	6	7	8	9	10	11	MID		
TRACE	2		1				2	1	1		1			1	1	1	2	1	1	2		1	1		4	TRACE
01 IN				1				1	1										.1							01 IN
02 TO 09 IN	1	2	1		2		1									1		1						1	2	02 TO 09 IN
10 TO 24 IN								1								1									2	10 TO 24 IN
25 TO 49 IN																						1		1	1	25 TO 49 IN
50 TO 99 IN																1							1		1	50 TO 99 IN
1.00 TO 1.99 IN																									1	1.00 TO 1.99 IN
2.00 IN AND OVER																										2.00 IN AND OVER
TOTAL	3	2	2	1	2		3	3	2		1			1	1	4	2	2	2	2		2	2	2	11	TOTAL

D CEILING---VISIBILITY OCCURRENCES (HOURLY OBSERVATIONS):

VISIBILITY (MILES)	CEILING (FEET)									TOT.
	0	100-200	300-400	500-900	1000-1900	2000-2900	3000-4900	5000-9500	OVER 9500	
0 TO 1/8										0
1/8 TO 3/8										0
1/2 TO 3/4										0
1 TO 2 1/2			1					2	5	8
3 TO 6			1	2	6	3	1	4	57	74
7 TO 15					17	17	14	45	569	662
20 TO 30										0
35 OR MORE										0
TOTAL			2	2	23	20	15	51	631	744

E HOURLY OCCURRENCES OF SKY COVER, WIND, AND RELATIVE HUMIDITY:

HOUR OF DAY	CLOUDS SCALE - 10			WIND SPEED (MPH)								RELATIVE HUMIDITY (%)									HOUR OF DAY
	0-3	4-7	8-10	0	1-3	4-7	8-12	13-18	19-24	25-38	OVER 38	0-19	20-29	30-39	40-49	50-59	60-69	70-79	80-89	90-100	
00	22	1	8	1	4	14	11		1							4	5	12	6	4	00
01	19	3	9	2		20	8	1								4	4	12	7	4	01
02	19	4	8	2	1	12	14	2								1	7	7	11	5	02
03	21	2	8	2	4	14	16	1							1	2	4	7	11	6	03
04	21	3	7	1	1	17	11	1								3	2	7	12	7	04
05	19	3	9		2	16	12	1								3		8	9	11	05
06	20	2	9	2	2	13	11	3								1	5	4	11	10	06
07	18	3	10	2	1	12	14	2								2	5	7	11	6	07
08	19	4	8	2	1	12	14	2							4	5	9	5	5	3	08
09	22	3	6		1	11	12	6	1					5	6	7	4	6	3		09
10	20	4	7			8	15	8					1	7	9	6	2	4	2		10
11	14	9	8	1		9	15	6					3	10	10	1	3	3	1		11
12	14	7	10		1	8	12	9	1				5	11	8	1	4	1	1		12
13	14	8	9		1	5	14	11				1	5	12	6	2	4		1		13
14	13	8	10			9	13	8	1			2	4	14	3	4	2	1		1	14
15	14	8	9			7	15	9				1	5	11	4	7	1	1		1	15
16	15	4	12	1	1	10	12	7					7	10	5	5	2	1	1		16
17	16	5	10			9	11	10	1				3	13	4	5	5		1		17
18	15	9	7		2	11	13	5						14	4	5	5	2	1		18
19	19	4	8		1	15	14	1						7	9	3	8	2	1	1	19
20	22	2	7	2	4	13	11	1						1	10	7	3	7	2	1	20
21	20	3	8	2	4	14	9	1		1				2	5	8	5	6	4	1	21
22	21	3	7	4	1	18	7	1							1	9	8	5	5	3	22
23	23	4	4	2	2	22	5									4	10	6	7	4	23
	440	106	198	26	34	299	283	96	5	1		4	33	117	89	99	107	114	113	68	

F HOURLY TEMPERATURES (READ ABOUT 20 MINUTES AFTER THE HOUR)

DAY OF MO.	MID.	1 A.M.	2 A.M.	3 A.M.	4 A.M.	5 A.M.	6 A.M.	7 A.M.	8 A.M.	9 A.M.	10 A.M.	11 A.M.	NOON	1 P.M.	2 P.M.	3 P.M.	4 P.M.	5 P.M.	6 P.M.	7 P.M.	8 P.M.	9 P.M.	10 P.M.	11 P.M.	DAY OF MO.
1	74	72	66	66	66	66	67	68	70	74	79	83	84	85	85	89	89	88	85	82	79	77	76	69	1
2	68	68	69	69	69	69	69	70	71	73	72	73	73	72	73	75	75	75	73	73	71	70	70	69	2
3	68	68	67	68	68	67	68	69	72	72	72	74	75	75	77	78	79	79	75	74	71	69	68	68	3
4	67	67	69	69	68	68	68	70	74	78	80	86	86	87	75	75	79	82	83	81	79	77	76	75	4
5	70	66	63	62	61	61	61	62	63	63	65	65	68	70	72	73	73	74	72	71	68	65	63	62	5
6	61	60	59	58	59	59	59	61	67	71	76	75	80	82	80	80	79	78	77	74	72	70	67	66	6
7	65	65	64	64	63	64	64	66	70	75	79	82	82	84	82	82	81	69	67	68	67	66	66	66	7
8	65	65	64	64	64	62	63	64	66	68	68	72	76	74	74	76	75	76	75	71	66	64	63	62	8
9	61	61	60	60	60	61	61	63	65	68	68	71	71	75	77	78	74	75	73	71	68	66	65	64	9
10	62	60	60	59	58	58	58	62	66	70	74	77	75	77	78	79	81	78	76	75	73	71	68	65	10
11	64	63	62	61	60	60	58	62	68	72	75	80	83	84	85	85	84	83	80	76	73	71	70	70	11
12	69	69	68	67	66	65	65	66	70	75	80	84	83	84	81	80	80	81	80	77	76	74	73	72	12
13	69	68	67	67	65	65	65	67	71	76	80	82	83	80	84	82	85	85	84	80	77	74	73	71	13
14	69	69	68	67	65	63	63	65	71	76	81	83	85	84	85	87	88	86	84	81	78	76	75	74	14
15	73	71	68	66	64	62	62	64	67	70	73	73	75	77	80	76	76	76	75	73	71	71	69	66	15
16	66	64	63	62	61	60	60	61	68	72	76	76	79	81	81	78	80	80	77	74	70	67	65	61	16
17	60	60	58	58	57	55	56	59	63	66	66	68	71	71	74	72	73	73	71	69	68	64	62	60	17
18	60	58	57	55	54	54	53	57	63	67	67	69	70	72	72	73	75	74	72	70	68	67	62	61	18
19	59	57	58	57	57	56	56	60	66	69	71	72	75	76	75	77	75	73	73	69	66	65	64	64	19
20	60	59	58	57	55	55	56	59	67	70	73	77	81	79	79	82	82	82	79	77	74	71	69	66	20
21	63	64	62	63	62	61	60	63	71	78	80	81	83	83	82	85	83	83	82	79	77	77	71	70	21
22	67	66	65	64	63	63	62	64	71	77	81	83	82	85	85	85	85	83	82	79	76	73	72	70	22
23	69	68	67	65	65	63	62	66	72	75	78	80	80	84	84	84	85	84	82	80	77	75	70	69	23
24	67	68	67	65	64	63	62	64	69	75	79	80	80	82	82	84	85	85	82	80	77	75	72	70	24
25	69	69	67	67	66	65	64	65	73	78	83	87	86	89	91	91	90	89	85	81	78	75	73	72	25
26	71	71	70	70	68	67	67	70	79	84	87	89	93	93	94	94	94	92	90	89	83	81	77	74	26
27	72	71	71	70	69	68	67	70	79	85	89	92	95	95	95	96	92	93	89	85	81	78	77	75	27
28	73	73	71	69	68	66	67	69	80	87	90	92	93	95	95	95	95	93	90	87	82	83	78	75	28
29	75	73	73	75	72	70	67	69	74	81	87	90	94	96	97	95	95	93	90	87	84	80	77	75	29
30	75	74	70	70	70	70	70	72	81	85	90	93	92	93	94	88	85	83	86	82	81	80	79	78	30
31	76	76	75	75	73	73	72	74	81	85	88	92	95	95	96	89	83	80	77	74	74	74	71	71	31

G 6-HOURLY OBSERVATIONS OF SKY COVER, PRESSURE, PSYCHROMETRIC DATA, AND WIND:

DAY OF MO.	HOUR (LOCAL TIME)	SKY COVER (IN TENTHS)	STATION PRESS. (IN.)	DRY BULB (°F)	WET BULB (°F)	REL. HUM. %	DEW PT. (°F)	WIND DIR.	WIND SPEED	DAY OF MO.	HOUR (LOCAL TIME)	SKY COVER (IN TENTHS)	STATION PRESS. (IN.)	DRY BULB (°F)	WET BULB (°F)	REL. HUM. %	DEW PT. (°F)	WIND DIR.	WIND SPEED	DAY OF MO.	HOUR (LOCAL TIME)	SKY COVER (IN TENTHS)	STATION PRESS. (IN.)	DRY BULB (°F)	WET BULB (°F)	REL. HUM. %	DEW PT. (°F)	WIND DIR.	WIND SPEED	DAY OF MO.	HOUR (LOCAL TIME)	SKY COVER (IN TENTHS)	STATION PRESS. (IN.)	DRY BULB (°F)	WET BULB (°F)	REL. HUM. %	DEW PT. (°F)	WIND DIR.	WIND SPEED
1	01	10	29.28	72	65	69	61	W	7	1	07	10	29.24	68	64	84	63	SW	9	1	13	9	29.18	85	73	57	68	SSW	4	1	19	5	29.09	82	72	64	68	SE	10
2	01	10	29.12	68	68	98	68	SW	5	2	07	10	29.15	70	69	94	68	NNW	12	2	13	10	29.21	72	68	80	66	ENE	16	2	19	10	29.25	73	67	75	64	ESE	9
3	01	10	29.27	68	64	81	62	E	10	3	07	10	29.29	69	64	77	62	E	13	3	13	10	29.28	75	67	68	63	ESE	18	3	19	2	29.23	74	66	66	62	SE	7
4	01	8	29.15	67	65	88	63	E	8	4	07	10	29.05	70	69	96	69	S	6	4	13	7	28.91	87	76	60	72	SW	16	4	19	10	28.90	81	72	66	69	WNW	11
5	01	10	28.97	66	63	86	61	NNE	18	5	07	10	29.08	62	59	82	57	NNE	15	5	13	6	29.15	70	62	64	57	ENE	18	5	19	2	29.19	71	63	64	58	NE	10
6	01	1	29.24	60	57	83	55	NE	6	6	07	3	29.26	61	59	86	57	ENE	8	6	13	5	29.25	82	65	40	55	S	11	6	19	9	29.22	74	64	57	58	SSE	5
7	01	4	29.22	65	62	85	60	ENE	8	7	07	9	29.22	66	64	91	63	NE	5	7	13	10	29.17	84	66	39	56	SSW	8	7	19	9	29.12	68	66	90	65	ESE	8
8	01	10	29.06	65	64	94	63	ESE	9	8	07	10	29.07	64	63	93	62	WNW	8	8	13	6	29.08	74	64	59	58	NNE	10	8	19	4	29.07	71	63	66	59	NNW	12
9	01	0	29.10	61	60	96	59	NW	7	9	07	10	29.13	63	62	94	62	NNW	9	9	13	4	29.13	75	66	62	61	N	10	9	19	4	29.17	71	65	73	62	N	9
10	01	0	29.22	60	56	77	53	NW	9	10	07	0	29.28	62	58	77	55	NNW	8	10	13	3	29.28	77	59	35	46	NNW	9	10	19	0	29.28	75	61	43	51	NE	4
11	01	0	29.32	63	59	77	56	C		11	07	0	29.34	62	58	78	55	ESE	5	11	13	4	29.34	84	68	43	59	SSW	7	11	19	0	29.30	76	68	66	64	SSE	14
12	01	0	29.30	69	66	89	65	SSE	7	12	07	3	29.31	66	63	84	61	SSW	8	12	13	10	29.28	84	70	49	63	WSW	16	12	19	9	29.28	77	68	64	64	WNW	7
13	01	0	29.31	68	66	91	65	NW	10	13	07	0	29.34	67	65	90	64	NNW	9	13	13	4	29.32	80	65	43	56	NE	6	13	19	0	29.25	80	68	55	62	SW	6
14	01	0	29.25	69	64	78	62	W	5	14	07	2	29.26	65	62	86	61	WSW	5	14	13	0	29.17	84	67	41	58	WSW	13	14	19	3	29.10	81	68	51	61	WSW	8
15	01	5	29.16	71	65	73	62	N	8	15	07	1	29.24	64	59	79	57	NNW	8	15	13	9	29.27	77	60	36	48	NNW	12	15	19	10	29.24	73	60	49	52	N	6
16	01	8	29.25	64	59	76	56	WNW	5	16	07	8	29.26	61	58	82	56	C		16	13	5	29.23	81	62	34	50	WSW	14	16	19	1	29.22	74	58	38	47	NW	12
17	01	0	29.28	60	57	84	55	NNE	10	17	07	0	29.37	59	55	80	53	NNW	8	17	13	2	29.36	71	55	32	40	NNE	10	17	19	0	29.32	69	56	43	46	N	5
18	01	0	29.36	58	52	67	47	NW	7	18	07	7	29.37	57	53	75	49	NW	9	18	13	3	29.35	72	57	38	45	NNW	13	18	19	0	29.29	70	54	35	41	NNE	6
19	01	0	29.29	57	53	76	49	W	5	19	07	2	29.31	60	53	64	48	NW	8	19	13	1	29.29	76	56	25	37	NNW	13	19	19	0	29.28	69	56	44	46	N	9
20	01	0	29.32	59	53	69	49	C		20	07	0	29.36	59	52	65	47	NW	8	20	13	2	29.34	79	61	35	49	NNE	7	20	19	0	29.32	77	62	42	52	NW	6
21	01	0	29.35	64	59	77	56	W	6	21	07	0	29.40	63	58	74	55	NW	7	21	13	3	29.39	83	63	32	50	NNE	8	21	19	0	29.36	79	63	43	54	NNE	5
22	01	0	29.39	66	61	76	58	WNW	4	22	07	1	29.41	64	60	81	58	WNW	4	22	13	2	29.35	85	64	31	51	NW	10	22	19	1	29.28	79	62	38	51	NNW	6
23	01	2	29.29	68	62	72	59	WNW	5	23	07	0	29.30	66	63	85	61	NNW	8	23	13	3	29.27	84	65	36	54	NW	10	23	19	2	29.20	80	64	40	53	N	4
24	01	0	29.24	68	61	70	57	NNW	7	24	07	0	29.28	64	60	80	57	NNW	7	24	13	2	29.28	82	64	38	54	N	3	24	19	4	29.25	80	64	42	55	N	3
25	01	9	29.28	69	62	69	58	WSW	6	25	07	9	29.33	65	60	74	57	W	6	25	13	0	29.31	89	64	24	47	SW	8	25	19	3	29.28	81	66	46	58	S	8
26	01	0	29.29	71	61	58	55	WSW	7	26	07	0	29.32	70	61	59	55	W	6	26	13	0	29.30	93	67	25	52	WNW	12	26	19	3	29.27	89	67	33	55	SSE	5
27	01	0	29.28	71	65	71	61	WSW	7	27	07	0	29.32	70	62	65	58	WSW	3	27	13	10	29.28	95	68	24	52	WSW	12	27	19	8	29.22	85	67	38	57	SSW	9
28	01	8	29.23	73	62	55	56	W	4	28	07	4	29.26	69	61	62	56	WNW	4	28	13	0	29.21	95	66	19	47	WNW	13	28	19	0	29.15	87	68	38	58	SSE	6
29	01	0	29.17	73	63	59	58	WSW	7	29	07	0	29.19	69	61	64	56	SW	5	29	13	0	29.15	96	69	25	54	SW	11	29	19	0	29.10	87	67	35	56	SSW	9
30	01	0	29.13	74	63	55	57	SW	7	30	07	4	29.14	72	62	56	56	WSW	7	30	13	8	29.12	93	71	34	61	WSW	14	30	19	3	29.09	82	73	64	69	SW	9
31	01	4	29.14	76	70	75	67	WSW	5	31	07	0	29.20	74	70	84	68	C		31	13	9	29.18	95	75	40	67	WSW	6	31	19	8	29.20	74	71	84	69	E	5
	01	3	29.23	87	62	77	58	W	7		07	4	29.26	65	61	79	58	NNW	7		13	5	29.24	83	65	41	55	WSW	11		19	4	29.21	77	65	53	58	N	8

Station pressure in Table G obtained from barometer at 777 feet above mean sea level.

W.R.P.C., Kansas City, Mo., -- 9-23-53 -- 650

DEPARTMENT OF COMMERCE, WEATHER BUREAU

LOCAL CLIMATOLOGICAL DATA

(Formerly Station Meteorological Summary)

DETROIT, MICHIGAN (CITY AIRPORT) — SEPTEMBER, 1953.

Latitude 42 ° 24 ′ N. Longitude 83 ° 00 ′ W. Elevation (ground) 619 Feet. EASTERN Standard time used

Date	Temperature (°F)					Precipitation		Snow, Sleet, Hail or Ice on ground at 7:30 A.M. (In.)	Wind				Sunshine		Sky cover		Thunderstorm or distant lightning	Weather restricting visibility to ¼ mile or less					Date
	Maximum	Minimum	Average	Departure from normal	Degree days (base 65°)	Total (Water equivalent) (In.)	Snow, Sleet, Hail (In.)		Prevailing direction	Average speed (m. p. h.)	Fastest mile Speed (m. p. h.)	Fastest mile Direction	Total (hours and minutes)	Percent of possible	Sunrise to sunset (tenths)	Midnight to midnight (tenths)							
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24
1	98	70	84	+15	0	0	0	0	W	5.6	17	W	12:34	96	3	2							1
2	100	76	88	+20	0	T	0	0	WSW	6.5	16	SW	9:52	75	3	2	T						2
3	100	71	86	+18	0	0	0	0	S	6.5	15	SW	11:18	86	2	4							3
4	91	61	76	+8	0	.23	0	0	NW	11.8	29	NW	6:01	46	8	8							4
5	77	58	68	0	0	0	0	0	W	9.3	22	NW	10:33	81	4	4							5
6	80	52	66	-1	0	0	0	0	W	4.8	13	NW	12:34	97	2	1							6
7	72	57	65	-2	0	0	0	0	NNW	11.8	25	NW	10:52	84	3	4							7
8	75	49	62	-5	3	0	0	0	NNW	6.4	17	WNW	9:55	77	4	2							8
9	75	52	64	-3	1	0	0	0	N	5.5	13	ESE	12:44	99	2	1							9
10	77	50	64	-2	1	0	0	0	SE	5.2	11	ESE	12:17	96	2	2							10
11	78	60	69	+3	0	.07	0	0	S	7.8	18	S	6:55	54	8	5							11
12	71	44	58	-8	7	.26	0	0	WNW	18.2	38	NW	3:24	27	9	9	T						12
13	60	43	52	-13	13	T	0	0	WNW	16.5	26	NW	8:19	66	5	5							13
14	63	40	52	-13	13	0	0	0	S	5.4	11	NW	5:40	45	8	5							14
15	72	43	58	-7	7	T	0	0	WSW	7.8	19	WSW	10:28	84	6	3							15
16	70	49	60	-5	5	0	0	0	NW	9.5	20	NW	11:11	90	3	2							16
17	67	44	56	-8	9	0	0	0	N	5.1	11	SE	12:25	100	0	1	DL						17
18	80	57	69	+5	0	.01	0	0	SSE	10.1	17	S	5:21	43	8	8	DL						18
19	75	60	68	+4	0	.92	0	0	S	7.2	23	WNW	0:49	7	10	10	T						19
20	76	53	65	+2	0	.02	0	0	SSW	10.0	24	NW	6:25	52	6	6		F					20
21	63	48	56	-7	9	T	0	0	NW	11.7	26	NW	10:00	82	4	4							21
22	61	43	52	-11	13	0	0	0	NW	8.8	20	N	10:41	88	3	1							22
23	67	42	55	-7	10	0	0	0	SE	6.2	12	SE	12:08	100	2	1							23
24	78	50	64	+2	1	0	0	0	S	9.3	17	SSW	11:49	98	1	2							24
25	77	59	68	+7	0	.29	0	0	SSW	13.6	30	SW	7:54	66	7	7	DL						25
26	71	50	61	0	4	0	0	0	W	8.5	13	S	12:00	100	0	1	DL						26
27	70	54	62	+1	3	0	0	0	NW	12.0	23	NW	11:04	93	1	3							27
28	79	45	62	+2	3	0	0	0	SW	7.5	18	W	11:54	100	0	0							28
29	89	55	72	+12	0	0	0	0	ESE	8.1	19	S	11:45	99	7	4	DL						29
30	77	55	66	+6	0	T	0	0	N	10.3	20	N	11:49	100	0	1	DL						30
Sum	2289	1590	—	—	—	1.80	0	—	—	267.0	—	—	290:41	—	121	108	—	—					Sum
Avg.	76.3	53.0	—	—	—	—	—	—	—	8.9	Fastest	Dir.	Possible	%	4.0	3.6	—	—					Avg.
										Misc.	38	NW	374:31	78	—	—	—	—					Misc.

T in columns 7, 8, and 9 indicates amount too small to measure.

TEMPERATURE: (°F)

Average monthly	64.7
Departure from normal	+0.4
Highest 100 on 2; 3	
Lowest 40 on 14	
Number of days with —	
Max. 32° or below	0
Max. 90° or above	4
Min. 32° or below	0
Min. 0° or below	0

HEATING DEGREE DAYS (base 65°):

Total this month	102
Departure from normal	+6*
Seasonal total (since July 1)	108
Seasonal departure from normal	+4*

BAROMETRIC PRESSURE (In.)

Avg. station (elev. 730 feet, m.s.l.)	29.216
Highest sea level 30.51 on 23	
Lowest sea level 29.57 on 12	

PRECIPITATION: (In.)

Total for the month	1.80
Departure from normal	-0.98
Greatest in 24 hours 0.93 on 18-19	
Snow, Sleet and Hail —	
Total for the month	0
Greatest in 24 hours 0 on -	
Greatest depth on ground 0 on -	
Dates of — Hail 0	
Sleet 0 Glaze 0	

Symbols used in columns 18-19

A = Hail	L = Drizzle
BS = Blowing snow	N = Sand
DL = Distant lightning	R = Rain
D = Dust	S = Snow
E = Sleet	T = Thunderstorm
F = Fog	ZL = Freezing drizzle
H = Haze	ZR = Freezing rain
K = Smoke	

*(REVISED DEGREE DAY DATA. JULY; DEPARTURE FROM NORMAL +5, SEASONAL DEPARTURE +5. AUGUST; DEPARTURE -7, SEASONAL DEPARTURE -2.)

THE HEAT WAVE ENDING SEPTEMBER 4TH ESTABLISHED AN ALL TIME RECORD OF 11 CONSECUTIVE DAYS WITH TEMPERATURES OF 90° OR HIGHER. TEMPERATURES ON 10 OF THESE DAYS REACHED 95° OR MORE. DAILY HIGH TEMPERATURE RECORDS WERE SET EACH OF THE FIRST 4 DAYS THIS MONTH. SCATTERED LIGHT FROST WAS REPORTED WITHIN THE METROPOLITAN AREA OF DETROIT ON THE 14TH WITH AN UNOFFICIAL LOW TEMPERATURE READING OF 29° OBSERVED.

HOURLY PRECIPITATION

Date	A. M. Hour ending at												P. M. Hour ending at												Date
	1	2	3	4	5	6	7	8	9	10	11	12	1	2	3	4	5	6	7	8	9	10	11	12	
1																									1
2																T									2
3																									3
4																.08	.04	.08	.01	.02					4
5																									5
6																									6
7																									7
8																									8
9																									9
10																									10
11								T	T	.07	T														11
12	T	.20	.02	T					T	.03	.01												T	T	12
13	T	T	T																						13
14																									14
15															T										15
16																									16
17																									17
18	T	T							T	T	T													.01	18
19	T		.01	.01					.13	.07	.03	.05	.14	.06	.03	.07	.06	.08	.14	.04	T				19
20								T	T											T	T	.01	.01	T	20
21			T																						21
22																									22
23																									23
24																									24
25																T	T	.03			.26				25
26																									26
27																									27
28																									28
29																									29
30	T	T																							30

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RESPONDENT'S EXHIBIT No. 3 (SHEET 6)

(SHEET 7)

U. S. DEPARTMENT OF COMMERCE, WEATHER BUREAU

LOCAL CLIMATOLOGICAL DATA

DETROIT, MICHIGAN (WILLOW RUN AIR TERMINAL) — SEPTEMBER 1953

Latitude 42° 14' N. — Longitude 83° 32' W. — Elevation (ground) 722 ft. — Eastern Standard time used

Date	Temperature (°F) Maximum	Minimum	Average	Departure from normal	Degree days (base 65°)	Precipitation Total (Water equivalent) (In.)	Snow, Sleet, Hail (In.)	Snow, Sleet, Hail or Ice on ground at 7:30am (In.)	Wind Prevailing direction	Average speed (m. p. h.)	Fastest mile Speed (m. p. h.)	Fastest mile Direction	Sunshine Total (hours and minutes)	Sunshine Percent of possible	Sky cover Sunrise to sunset (tenths)	Sky cover Midnight to midnight (tenths)	Thunderstorm or distant lightning	Weather restricting visibility to ¼ mile or less					Date
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24
1	100	69	85	+16	0	0.03	0	0	WSW	5.8	16	W			3	2							1
2	100	74	87	+19	0	0	0	0	W	6.7	17	W			4	2	T						2
3	98	69	84	+16	0	0	0	0	SE	5.4	14	SSW			4	4							3
4	89	58	74	+6	0	0.24	0	0	SW	9.7	25	WNW			9	8							4
5	75	55	65	-3	0	0	0	0	WNW	9.1	18	WNW			5	5							5
6	79	53	66	-2	0	0	0	0	SW	6.0	15	NW			2	2							6
7	71	54	63	-4	2	0	0	0	NNW	11.7	23	NW			3	3							7
8	75	48	62	-5	3	0	0	0	NW	7.0	14	WNW			3	2							8
9	77	52	65	-2	0	0	0	0	NNE	6.8	11	N			4	2							9
10	80	53	67	+1	0	0	0	0	NE	8.5	16	SE			3	3							10
11	78	57	68	+2	0	0.28	0	0	S	8.4	20	SE			9	7	DL						11
12	69	44	57	-9	8	0.30	0	0	WNW	17.3	30	WNW			8	9	T						12
13	61	42	52	-13	13	0	0	0	WNW	14.2	20	WNW			5	4							13
14	62	40	51	-14	14	0	0	0	WNW	5.3	11	WNW			9	5							14
15	72	42	57	-8	8	0	0	0	W	7.5	19	W			5	3	DL						15
16	70	48	59	-6	6	0	0	0	WNW	10.0	16	WNW			3	2							16
17	71	44	58	-6	7	T	0	0	SE	7.9	17	SE			1	1	TDL						17
18	81	56	69	+5	0	0.07	0	0	SSE	11.1	20	ESE			7	8	T						18
19	71	57	64	0	1	1.04	0	0	SW	8.6	26	S			10	10	T						19
20	76	53	65	+2	0	0.03	0	0	SW	11.3	20	SW			6	8		F					20
21	62	45	54	-9	11	0	0	0	NW	11.2	20	NW			4	4							21
22	62	40	51	-11	14	0	0	0	NW	7.4	15	NNW			4	2							22
23	68	43	56	-6	9	0	0	0	SE	7.7	15	SSE			1	1							23
24	78	47	63	+1	2	0	0	0	SW	8.9	16	SW			1	2							24
25	77	57	67	+6	0	T	0	0	SW	12.7	25	SW			8	7							25
26	74	48	61	0	4	0	0	0	WSW	8.2	16	SSE			1	1	DL						26
27	70	52	61	0	4	0	0	0	NW	12.3	23	NW			1	3							27
28	80	45	63	+3	2	0	0	0	SW	8.5	19	SW			0	0							28
29	90	55	73	+13	0	0	0	0	SE	10.4	18	SE			7	4	DL						29
30	79	56	68	+8	0	0	0	0	NNW	10.6	21	NNW			0	1	DL						30
31																							31
Sum	2295	1556	—	—	—	1.99	0	—	—	276.2	—	—		—	130	115	—	—					Sum
Avg.	76.5	51.9	—	—	—	—	—	—	—	9.2	Fastest	Dir.	Possible	%	4.3	3.8	—	—					Avg.
										Misc.	30	WNW			—	—	—	—					Misc.

T in columns 7, 8, and 9 indicates amount too small to measure.

TEMPERATURE: (°F)

Average monthly		64.2
Departure from normal		-0.1
Highest	100	on 1st, 2nd
Lowest	40	on 14th, 22nd
Number of days with —		
Max. 32° or below		0
Max. 90° or above		4
Min. 32° or below		0
Min. 0° or below		0

HEATING DEGREE DAYS (base 65°):

Total this month	108
Departure from normal	+12
Seasonal total (since July 1)	114
Seasonal departure from normal	-2

BAROMETRIC PRESSURE (In.)

Avg. station (elev. 777 feet, m.s.l.)			29.161
Highest sea level	30.51	on	23rd
Lowest sea level	29.58	on	12th

PRECIPITATION: (In.)

Total for the month			1.99
Departure from normal			-1.03
Greatest in 24 hours	1.04	on	19th
Snow, Sleet and Hail —			
Total for the month	none		
Greatest in 24 hours	-	on	-
Greatest depth on ground	-	on	-
Dates of — Hail	none		
Sleet	none	Glaze	none

Symbols used in columns 18-19

A = Hail; BS = Blowing snow; DL = Distant lightning; D = Dust; E = Sleet; F = Fog; H = Haze; K = Smoke; L = Drizzle; N = Sand; R = Rain; S = Snow; T = Thunderstorm; ZL = Freezing drizzle; ZR = Freezing rain

*Highest observed one-minute wind speed and its direction

The unseasonably hot weather beginning with the last week of August continued through the 3rd of September which was the tenth consecutive day of maximum temperatures above 90. The maximum of 100 reached on the 1st and 2nd equalled the highest recorded at this station. The temperature reached 90 again on the 29th, making 30 days of 90 or above for the season as compared to the normal of 16. Most of the month was sunny and dry with precipitation more than an inch below normal, measureable amounts occurring on only seven days during the period.

HOURLY PRECIPITATION

Date	A.M. 1	2	3	4	5	6	7	8	9	10	11	12	P.M. 1	2	3	4	5	6	7	8	9	10	11	12	Date
1																T	.03								1
2																									2
3																									3
4				T									T		T	.10	.10	.03	.01						4
5																									5
6																									6
7																									7
8																									8
9																									9
10																									10
11							T	.02	.18	.07	.01	T													11
12	.24	.05	.01						T	T				T	T			T	T	T			T	T	12
13																									13
14																									14
15																									15
16																									16
17																								T	17
18	.05	T		T	T	T	T	.01	.01	T		T											T		18
19			T	.04	.01	T	T	T	.18	.05	T	.13	.04	.05	.05	.14	.05	.23	.07	T					19
20																				.03	T	T	T	T	20
21																									21
22																									22
23																									23
24																									24
25						T								T		T	T							25
26																									26
27																									27
28																									28
29																									29
30																									30
31																									31

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W.R.P.C., Kansas City, Mo., — 10-6-53 -- 650

Supplement
(Based on one month's record)

U. S. DEPARTMENT OF COMMERCE, WEATHER BUREAU

LOCAL CLIMATOLOGICAL DATA

DETROIT, MICHIGAN
CITY AIRPORT
SEPTEMBER 1953

RESPONDENT'S EXHIBIT No. 3 (SHEET 8)

A TEMPERATURE AND WIND SPEED---RELATIVE HUMIDITY OCCURRENCES (HOURLY OBSERVATIONS):

WIND	0-4 M.P.H.						5-14 M.P.H.						15-24 M.P.H.						25 M.P.H. AND OVER						TOTAL OBS.
REL. HUMID. / TEMP (°F)	UNDER 30	30-49%	50-69%	70-79%	80-89%	90-100%	UNDER 30	30-49%	50-69%	70-79%	80-89%	90-100%	UNDER 30	30-49%	50-69%	70-79%	80-89%	90-100%	UNDER 30	30-49%	50-69%	70-79%	80-89%	90-100%	
104/00								1																	1
99/95		1					3	10																	14
94/90								8	1					1											10
89/85		1	1					7	6					1											16
84/80			7					2	6	5				1	1										22
79/75	1			3	3		5	31	13	7	3		1	2	5										74
74/70		3			3	6		45	14	5		1		5	5	1		1		1					90
69/65		1	5	2	2			36	35	6	4	1		5	7	4	1	1			2				112
64/60		1	8	4		4		11	36	17	16	20		7	3	1	1	3			1				133
59/55			5	12	4	1		9	21	21	19	5		6	2	1					2				108
54/50			2	13	10	1			13	13	15	1		1	4						1				74
49/45				4	16	3			2	5	7				2	3	3				2				47
44/40					7	3				1	5					1	2								19

B WIND DIRECTION AND SPEED OCCURRENCES:

DIRECTION	HOURLY OBSERVATIONS OF WIND SPEED (IN MILES PER HOUR)										AV. SPEED
	0 - 3	4 - 7	8 - 12	13 - 18	19 - 24	25 - 31	32 - 38	39 - 46	47 OVER	TOTAL	
N	26	10	9	8						53	6.0
NNE	4	5								9	4.0
NE	4	7	2							13	5.2
ENE		5	2							7	5.9
E	3	5	8							16	6.9
ESE		4	8							12	8.5
SE	3	24	13							40	6.7
SSE		15	20	4						39	8.6
S	6	41	36	6						89	7.6
SSW	3	8	20	21	3					55	11.4
SW	4	9	18	15						46	10.0
WSW	2	8	16	8						34	9.4
W	6	23	34	4	1					68	8.1
WNW	1	8	11	16	11	7				54	15.0
NW	13	33	30	26	6	2				110	9.7
NNW	6	13	21	22						62	10.0
CALM	13									13	0
TOTAL	94	218	248	130	21	9				720	8.9

C HOURLY OCCURRENCES OF PRECIPITATION AMOUNTS:

INTENSITIES	FREQUENCY OF OCCURRENCE FOR EACH HOUR OF THE DAY																									INTENSITIES
	A.M. HOUR ENDING AT												P.M. HOUR ENDING AT												MID TO MID	
	1	2	3	4	5	6	7	8	9	10	11	NOON	1	2	3	4	5	6	7	8	9	10	11	MID		
TRACE	5	3	2	1				2	4	1	2				1	2	1			1	2		1	2	5	TRACE
01 IN			1	1							1								1			1	1	1	1	01 IN
02 TO 09 IN			1							3	1	1		1	1	2	2	3		2					2	02 TO 09 IN
10 TO 24 IN		1							1				1						1						1	10 TO 24 IN
25 TO 49 IN																					1				2	25 TO 49 IN
50 TO 99 IN																									1	50 TO 99 IN
1.00 TO 1.99 IN																										1.00 TO 1.99 IN
2.00 IN AND OVER																										2.00 IN AND OVER
TOTAL	5	4	4	2				2	5	4	4	1	1	1	2	4	3	3	2	3	3	1	2	3	12	TOTAL

D CEILING---VISIBILITY OCCURRENCES (HOURLY OBSERVATIONS):

VISIBILITY (MILES)	CEILING (FEET)										TOT.
	0	100-200	300-400	500-900	1000-1900	2000-2900	3000-4900	5000-9500	OVER 9500		
0 TO 1/8		1									1
3/16 TO 1/4		1									1
1/2 TO 3/4											0
1 TO 2 1/2			1	3	2		1	3	16		26
3 TO 6				6	4	4	9	12	192		227
7 TO 15					1	9	18	18	419		465
20 TO 30											0
35 OR MORE											0
TOTAL		2	1	9	7	13	28	33	627		720

E HOURLY OCCURRENCES OF SKY COVER, WIND, AND RELATIVE HUMIDITY:

HOUR	CLOUDS SCALE : 10			WIND SPEED (MPH)								RELATIVE HUMIDITY (%)									HOUR
OF DAY	0- 3	4- 7	8- 10	0	1- 3	4- 7	8- 12	13- 18	19- 24	25- 30	OVER 30	0- 19	20- 29	30- 39	40- 49	50- 59	60- 69	70- 79	80- 89	90- 100	OF DAY
00	18	5	7	2	4	11	10	2	1						1	1	1	5	14	7	1	00
01	18	2	10			7	12	9		2					1	1		4	14	8	2	01
02	18	5	7	1	7	12	6	3	1					1			1	2	12	11	3	02
03	19	3	8		5	13	10	2							1			1	10	15	3	03
04	20	5	5	1	7	10	10	1	1						1			2	9	15	3	04
05	19	7	4	2	6	10	9	3							1			3	6	16	4	05
06	18	3	9		10	6	12	2								1		3	4	15	7	06
07	19	3	8	2	6	10	9	3								1		5	10	10	4	07
08	20	2	8	4	5	5	6	9	1							1	2	12	11	2	2	08
09	15	5	10		1	9	13	6	1							6	8	9	3	2	2	09
10	19	2	9	1	1	7	12	9							2	5	14	4	2		3	10
11	19	1	10		1	6	11	11	1						6	10	7	3	2	1	1	11
12	16	5	9			7	10	12		1					7	12	8		2		1	12
13	13	8	9			4	11	12	2	1				2	9	14	1	3			1	13
14	11	13	6			8	8	10	3	1				3	9	13	2	2			1	14
15	3	14	7			1	15	10	3	1				2	13	8	5	1			1	15
16	11	10	9		1	4	12	10	2	1				2	11	11	3	1			2	16
17	17	6	7			5	15	9	1						9	12	5	1	1		2	17
18	18	7	5			13	11	5		1					7	8	9	4			2	18
19	23	2	5		1	14	9	5	1							10	9	8	1	1	1	19
20	23	2	5		3	15	9	2		1						2	9	10	6	1	2	20
21	23	2	5		5	13	10	1		1							9	10	6	4	1	21
22	22	3	5		3	13	10	3		1						1	4	11	7	6	1	22
23	21	2	7		8	10	11		1						1	1	3	8	9	7	1	23
	429	117	174	13	81	218	248	130	21	9				10	79	118	100	112	129	121	51	

F HOURLY TEMPERATURES (ABOUT 20 MINUTES AFTER THE HOUR)

DAY OF MO.	MID.	1 A.M.	2 A.M.	3 A.M.	4 A.M.	5 A.M.	6 A.M.	7 A.M.	8 A.M.	9 A.M.	10 A.M.	11 A.M.	NOON	1 P.M.	2 P.M.	3 P.M.	4 P.M.	5 P.M.	6 P.M.	7 P.M.	8 P.M.	9 P.M.	10 P.M.	11 P.M.	DAY OF MO.
1	72	72	71	70	70	70	71	75	81	86	90	94	95	94	97	96	98	94	92	86	84	83	82	81	1
2	80	79	78	77	76	77	77	79	85	89	93	95	98	98	100	90	89	88	87	84	82	79	78	77	2
3	76	77	76	75	74	73	73	76	84	90	94	96	98	98	98	98	96	95	91	89	86	83	83	82	3
4	81	81	80	79	80	77	77	80	82	86	87	89	89	88	89	82	73	65	62	62	61	61	61	61	4
5	60	59	59	59	59	59	58	59	61	67	68	71	72	74	74	75	76	75	74	70	68	66	61	59	5
6	58	56	56	55	54	53	52	57	64	70	73	74	75	77	77	78	79	76	74	70	67	66	64	64	6
7	66	63	63	63	62	61	59	59	62	65	66	67	69	71	69	70	70	70	68	65	63	61	58	58	7
8	55	54	54	52	52	51	49	54	59	64	66	69	71	70	72	72	73	74	73	69	67	64	62	59	8
9	58	56	55	54	53	52	53	58	63	67	70	70	72	75	75	74	74	73	71	69	66	63	61	58	9
10	56	55	53	52	52	51	51	53	59	69	72	76	75	75	75	76	76	76	73	69	67	66	65	64	10
11	64	64	64	63	62	63	64	66	64	60	61	64	71	75	77	77	77	77	75	72	71	70	69	68	11
12	68	65	62	62	62	62	61	61	62	63	63	66	69	70	67	64	59	58	55	53	51	49	46	44	12
13	46	46	45	45	46	45	43	44	47	49	50	52	53	55	57	57	59	59	58	55	52	51	50	48	13
14	47	44	43	43	41	41	43	44	48	51	54	57	60	61	62	61	63	59	57	54	53	52	51	49	14
15	48	46	46	44	44	45	46	48	52	59	62	64	67	67	67	71	71	72	69	68	66	63	61	59	15
16	55	54	53	51	49	50	50	53	58	61	65	67	66	67	68	67	67	67	63	60	58	56	54	52	16
17	51	49	46	47	45	45	44	48	52	59	62	63	62	66	66	65	67	65	62	60	57	57	57	57	17
18	58	58	59	58	58	59	58	58	59	61	63	68	69	74	76	80	78	77	74	72	70	71	71	72	18
19	74	75	75	69	67	66	65	66	69	64	64	65	63	64	64	64	63	63	63	62	63	64	63	61	19
20	60	59	58	58	56	54	54	55	58	61	66	68	70	71	71	74	75	75	69	67	61	60	60	59	20
21	58	58	58	57	56	54	53	53	55	58	60	60	61	60	61	61	60	57	55	54	53	51	50	49	21
22	48	47	46	45	45	44	44	45	48	52	55	57	58	58	59	60	59	60	58	55	52	50	49	48	22
23	48	47	45	45	44	43	42	44	53	56	61	64	66	64	67	66	66	63	60	58	57	56	56	56	23
24	55	54	52	52	53	52	51	55	60	64	68	71	74	77	77	78	77	75	73	68	67	67	68	67	24
25	65	64	63	63	62	63	64	65	66	67	71	74	75	74	75	76	75	70	72	71	62	63	63	59	25
26	58	56	55	54	51	51	51	51	54	58	60	63	66	68	70	71	70	69	66	62	60	59	61	65	26
27	67	65	65	68	69	68	63	61	59	61	62	63	66	67	69	69	69	68	64	62	60	58	56	54	27
28	53	52	50	49	47	46	45	47	52	62	65	69	72	75	78	79	79	78	75	70	68	66	65	62	28
29	61	60	60	59	57	59	59	60	63	66	68	73	75	79	84	89	84	77	72	68	68	69	73	77	29
30	76	76	76	74	73	71	69	67	70	71	69	70	72	74	74	75	75	74	70	67	63	61	57	58	30

G 6-HOURLY OBSERVATIONS OF SKY COVER, PRESSURE, PSYCHROMETRIC DATA, AND WIND:

DAY OF MO.	HOUR (LOCAL TIME)	SKY COVER (IN TENTHS)	STATION PRESS. (IN.)	DRY BULB (°F)	WET BULB (°F)	REL. HUM. %	DEW PT. (°F)	WIND DIR.	WIND SPEED	DAY OF MO.	HOUR (LOCAL TIME)	SKY COVER (IN TENTHS)	STATION PRESS. (IN.)	DRY BULB (°F)	WET BULB (°F)	REL. HUM. %	DEW PT. (°F)	WIND DIR.	WIND SPEED	DAY OF MO.	HOUR (LOCAL TIME)	SKY COVER (IN TENTHS)	STATION PRESS. (IN.)	DRY BULB (°F)	WET BULB (°F)	REL. HUM. %	DEW PT. (°F)	WIND DIR.	WIND SPEED	DAY OF MO.	HOUR (LOCAL TIME)	SKY COVER (IN TENTHS)	STATION PRESS. (IN.)	DRY BULB (°F)	WET BULB (°F)	REL. HUM. %	DEW PT. (°F)	WIND DIR.	WIND SPEED
1	01	0	29.37	72	70	90	69	WNW	3	1	07	0	29.41	75	71	82	69	WSW	5	1	13	5	29.37	94	74	39	65	W	7	1	19	1	29.31	86	73	53	67	S	4
2	01	0	29.32	79	72	72	69	SW	6	2	07	0	29.33	79	70	64	66	W	7	2	13	3	29.28	98	75	34	65	NW	9	2	19	1	29.25	84	73	59	68	NE	6
3	01	4	29.25	77	71	76	68	S	6	3	07	0	29.26	76	73	84	71	SE	4	3	13	1	29.20	98	72	28	59	SSW	12	3	19	9	29.15	89	72	44	64	S	6
4	01	9	29.10	81	72	67	69	SE	4	4	07	1	29.08	80	71	66	68	SSW	11	4	13	10	29.03	88	72	46	65	SW	13	4	19	10	29.17	62	60	89	58	NNW	15
5	01	7	29.25	59	57	86	55	W	5	5	07	8	29.30	59	56	83	54	W	5	5	13	4	29.32	74	58	36	46	WNW	15	5	19	0	29.35	70	56	41	45	NW	8
6	01	0	29.38	56	52	76	49	WSW	3	6	07	0	29.39	57	53	78	50	SSW	2	6	13	4	29.33	77	59	33	46	WNW	8	6	19	0	29.29	70	58	47	49	S	5
7	01	8	29.29	63	58	73	54	NNW	8	7	07	5	29.35	59	55	80	53	NNW	12	7	13	4	29.40	71	56	39	44	NNW	16	7	19	0	29.46	65	54	47	44	NW	8
8	01	0	29.53	54	49	68	44	NNW	8	8	07	4	29.62	54	50	74	46	NNW	5	8	13	8	29.61	70	56	39	44	WNW	7	8	19	2	29.61	69	57	48	48	ENE	4
9	01	0	29.65	56	53	81	51	NNW	3	9	07	1	29.71	58	52	71	48	N	3	9	13	1	29.69	75	55	26	37	NE	5	9	19	0	29.65	69	56	44	46	NE	5
10	01	0	29.64	55	50	73	46	N	3	10	07	0	29.63	53	50	80	47	NW	3	10	13	3	29.54	75	60	41	50	ESE	9	10	19	3	29.47	69	57	46	48	SSE	6
11	01	3	29.42	64	59	75	55	SE	6	11	07	10	29.33	66	59	67	55	S	5	11	13	6	29.21	75	66	61	61	SSE	15	11	19	3	29.07	72	66	72	63	SE	5
12	01	10	28.97	65	63	87	61	W	24	12	07	9	28.92	61	59	90	58	SW	13	12	13	7	28.93	70	58	46	48	WNW	26	12	19	10	29.11	53	46	61	40	WNW	20
13	01	10	29.19	46	43	81	40	NW	20	13	07	0	29.25	44	41	76	37	WNW	15	13	13	9	29.27	55	46	48	36	WNW	21	13	19	0	29.28	55	45	47	35	WNW	8
14	01	0	29.32	44	41	76	37	NW	7	14	07	10	29.33	44	42	84	39	NNW	2	14	13	10	29.28	61	51	49	41	SE	11	14	19	0	29.27	54	47	60	40	S	7
15	01	0	29.23	46	44	87	42	NW	2	15	07	0	29.20	48	45	76	41	NW	3	15	13	10	29.13	67	55	45	45	SW	12	15	19	2	29.07	68	57	52	50	WSW	15
16	01	0	29.11	54	50	77	47	W	6	16	07	0	29.18	53	49	74	45	WNW	11	16	13	2	29.21	67	55	48	46	N	14	16	19	0	29.28	60	53	62	47	NE	10
17	01	0	29.35	49	46	79	43	N	3	17	07	0	29.44	48	45	81	42	N	3	17	13	0	29.44	66	55	49	46	E	8	17	19	1	29.42	60	51	53	43	SSE	10
18	01	10	29.43	58	53	74	49	SE	6	18	07	10	29.44	58	53	72	49	S	7	18	13	9	29.29	74	60	43	50	S	13	18	19	7	29.21	72	61	54	54	SSE	9
19	01	9	29.13	75	61	44	51	S	11	19	07	10	29.15	66	62	77	59	SW	4	19	13	10	29.16	64	63	94	62	SSW	5	19	19	10	29.07	62	61	95	61	SSW	6
20	01	3	29.11	59	58	93	57	W	8	20	07	10	29.13	55	55	100	55	SSW	7	20	13	0	29.06	71	63	64	58	SSW	14	20	19	10	29.09	67	57	53	49	NW	17
21	01	10	29.18	58	55	81	52	NW	6	21	07	5	29.26	53	51	82	48	NW	8	21	13	4	29.32	60	48	39	35	WNW	20	21	19	1	29.45	54	48	66	43	NNW	15
22	01	0	29.56	47	43	74	39	NW	8	22	07	0	29.66	45	43	83	40	NW	9	22	13	4	29.68	58	48	44	37	NW	11	22	19	0	29.69	55	48	58	40	NNE	3
23	01	0	29.74	47	44	79	41	NW	2	23	07	1	29.82	44	43	92	42	C		23	13	2	29.76	64	54	49	45	S	10	23	19	0	29.69	58	51	60	44	SE	8
24	01	0	29.64	54	50	77	47	S	6	24	07	0	29.61	55	51	76	47	S	9	24	13	1	29.51	77	61	40	50	S	13	24	19	1	29.46	68	58	57	52	S	8
25	01	10	29.44	64	57	63	52	SSW	8	25	07	10	29.38	65	58	69	54	SW	15	25	13	10	29.24	74	65	62	60	SSW	15	25	19	7	29.16	71	64	68	60	SSW	15
26	01	0	29.28	56	53	83	51	W	11	26	07	0	29.37	51	48	83	46	WSW	11	26	13	1	29.30	68	56	47	47	W	8	26	19	0	29.17	62	55	63	50	SSE	6
27	01	10	29.03	65	61	81	59	SSW	12	27	07	0	29.11	61	56	74	52	NW	12	27	13	0	29.16	67	52	34	37	NW	14	27	19	0	29.22	62	53	56	46	NW	7
28	01	0	29.25	52	47	69	42	NW	6	28	07	0	29.27	47	46	92	45	C		28	13	1	29.18	75	57	32	43	SW	14	28	19	0	29.17	70	58	49	50	SSW	4
29	01	0	29.24	60	55	73	51	NE	4	29	07	1	29.33	60	54	68	50	E	6	29	13	10	29.27	79	66	51	59	ESE	8	29	19	0	29.21	68	61	68	57	SE	11
30	01	8	29.21	76	59	34	46	SW	11	30	07	0	29.30	67	55	46	46	W	9	30	13	0	29.48	74	61	47	52	N	14	30	19	0	29.55	67	54	43	44	NW	5
	01	4	29.32	60	55	75	51	NW	7		07	3	29.35	58	54	77	51	NW	7		13	5	29.32	73	59	45	49	WNW	12		19	3	29.31	66	57	57	50	S	9

Station pressure in Table G obtained from barometer at 626 feet above mean sea level.

Supplement 1
(Based on one month's record)

U. S. DEPARTMENT OF COMMERCE, WEATHER BUREAU (SHEET 9)

LOCAL CLIMATOLOGICAL DATA

DETROIT, MICHIGAN
WILLOW RUN AIRPORT
SEPTEMBER 1953

A TEMPERATURE AND WIND SPEED --- RELATIVE HUMIDITY OCCURRENCES (HOURLY OBSERVATIONS):

WIND	0-4 M.P.H.						5-14 M.P.H.						15-24 M.P.H.						25 M.P.H. AND OVER						TOTAL OBS.
REL. HUMID. / TEMP. (°F)	UNDER 30	30-49%	50-69%	70-79%	80-89%	90-100%	UNDER 30	30-49%	50-69%	70-79%	80-89%	90-100%	UNDER 30	30-49%	50-69%	70-79%	80-89%	90-100%	UNDER 30	30-49%	50-69%	70-79%	80-89%	90-100%	
104/00								1																	1
99/95							4	7																	11
94/90		1	1				3	5						1											11
89/85			1				2	4	5					1											13
84/80			1				2	3	13	2				1	1										23
79/75	3	1		7	1	1	13	9	9	8	1		3	8	6										70
74/70		1			10	1	5	39	12	3	2	3		4	8	1		1							90
69/65		4	3		2	1	1	38	19	4	2			9	11	3	3				2		2		103
64/60		3	1		1	2		17	39	13	10	21		8	4		1	3			2				125
59/55			3	7	5	1		8	25	28	21	20		5	2	1									126
54/50			2	6	5			1	8	18	16	5		2	5										68
49/45				2	12	1			2	14	13	4			2	3	2								55
44/40					7	2				1	7	6					1								24

B WIND DIRECTION AND SPEED OCCURRENCES:

DIRECTION	HOURLY OBSERVATIONS OF WIND SPEED (IN MILES PER HOUR)									TOTAL	AV. SPEED
	0 - 3	4 - 7	8 - 12	13 - 18	19 - 24	25 - 31	32 - 38	39 - 46	47 OVER		
N	1	3	4	1						9	8.2
NNE	1	8	4							13	6.6
NE	1	17	14							32	7.3
ENE	5	11	4							20	5.6
E	3	7	2							12	5.4
ESE		11	5	2						18	7.9
SE	1	8	16	14						39	10.5
SSE	3	9	17	8	1					38	9.6
S	1	8	7	6	1					23	10.0
SSW	2	10	9	4						25	8.0
SW	9	19	33	29	3					93	10.5
WSW	3	27	23	10	1					64	8.9
W	6	28	16	7	1					58	7.8
WNW	6	33	28	26	4	4				101	10.9
NW	1	23	44	24	5	1				98	10.9
NNW	1	7	22	15	3					48	11.4
CALM	29									29	0
TOTAL	73	229	248	146	19	5				720	9.2

C HOURLY OCCURRENCES OF PRECIPITATION AMOUNTS:

INTENSITIES	FREQUENCY OF OCCURRENCE FOR EACH HOUR OF THE DAY																								MID TO MID	INTENSITIES
	A.M. HOUR ENDING AT												P.M. HOUR ENDING AT													
	1	2	3	4	5	6	7	8	9	10	11	NOON	1	2	3	4	5	6	7	8	9	10	11	MID		
TRACE		1	1	2	1	3	3	1	1	2	1	2	1	2	2	2	2	1	1	1	1	3	2	3	2	TRACE
01 IN			1		1			1	1		1								1							01 IN
02 TO 09 IN	1	1		1				1		2			1	1	1		2	1	1	1					3	02 TO 09 IN
10 TO 24 IN	1								2			1				2	1	1							1	10 TO 24 IN
25 TO 49 IN																									2	25 TO 49 IN
50 TO 99 IN																										50 TO 99 IN
1.00 TO 1.99 IN																									1	1.00 TO 1.99 IN
2.00 IN AND OVER																										2.00 IN AND OVER
TOTAL	2	2	2	3	2	3	3	3	4	4	2	3	2	3	3	4	5	3	3	2	1	3	2	3	9	TOTAL

D CEILING --- VISIBILITY OCCURRENCES (HOURLY OBSERVATIONS):

VISIBILITY (MILES)	CEILING (FEET)									TOT.
	0	100-200	300-400	500-900	1000-1900	2000-2900	3000-4900	5000-9500	OVER 9500	
0 TO 1/8										0
1/16 TO 3/16	2	1								3
1/4 TO 3/4		1		2						3
1 TO 2 1/2			1		1			2	4	8
3 TO 6				3	1	1	1	6	37	49
7 TO 15				2	6	7	23	36	583	657
20 TO 30										0
35 OR MORE										0
TOTAL	2	2	1	7	8	8	24	44	624	720

E HOURLY OCCURRENCES OF SKY COVER, WIND, AND RELATIVE HUMIDITY:

HOUR OF DAY	CLOUDS SCALE - 10			WIND SPEED (MPH)								RELATIVE HUMIDITY (%)									HOUR OF DAY
	0-3	4-7	8-10	0	1-3	4-7	8-12	13-18	19-24	25-30	OVER 30	0-19	20-29	30-39	40-49	50-59	60-69	70-79	80-89	90-100	
00	20	3	7	2	2	14	8	3		1			1			2	7	8	9	3	00
01	19	2	9	3	3	17	4	3					1			3	2	9	12	3	01
02	18	3	9	1	3	17	6	3							1	2	1	12	10	4	02
03	17	2	11	3	2	12	10	3							1		2	11	10	6	03
04	21	4	5	3	2	12	11	2							1		1	9	13	6	04
05	20	4	6	2	6	8	13	1								1		9	15	5	05
06	21	2	7	3	3	12	9	3								1		7	13	9	06
07	19	3	8	3	2	10	14	1									1	2	8	13	6	07
08	19	3	8	1		14	14	1									3	5	14	4	4	08
09	19	3	8	1	1	7	12	8	1							3	11	9	3		4	09
10	15	5	10	1	2	7	8	11	1						3	9	10	3	1	2	2	10
11	14	8	8	1	1	6	9	9	3	1			1	7	8	9	2	1	1	1	11
12	14	7	9			5	11	11	2	1			3	10	7	7	1	1		1	12
13	9	12	9			5	8	13	4				3	11	11	2	2			1	13
14	10	10	10			3	11	14	1	1			5	13	6	5				1	14
15	11	10	9			2	10	14	3	1			7	11	5	4	1			2	15
16	11	10	9		1	6	9	13	1				7	9	7	3	2			2	16
17	15	10	5		2	4	10	13	1				5	9	8	3	3			2	17
18	21	3	6		3	7	14	5	1				2	7	6	8	4	1		2	18
19	21	4	5	1		14	13	1	1					4	8	6	6	3	1	2	19
20	22	3	5	1	4	11	9	5						1	5	7	8	4	3	2	20
21	21	4	5	2	1	12	13	2						1	2	11	5	6	4	1	21
22	17	4	9		3	13	11	3							4	3	10	5	6	2	22
23	18	4	8	1	3	11	11	4					1		1	4	7	9	7	1	23
	412	123	185	29	44	229	248	146	19	5			36	89	92	104	82	121	123	72	

F HOURLY TEMPERATURES (ABOUT 20 MINUTES AFTER THE HOUR)

DAY OF MO.	MID.	1 A.M.	2 A.M.	3 A.M.	4 A.M.	5 A.M.	6 A.M.	7 A.M.	8 A.M.	9 A.M.	10 A.M.	11 A.M.	NOON	1 P.M.	2 P.M.	3 P.M.	4 P.M.	5 P.M.	6 P.M.	7 P.M.	8 P.M.	9 P.M.	10 P.M.	11 P.M.	DAY OF MO.
1	70	70	70	70	71	70	69	71	78	86	91	95	97	97	100	97	89	90	90	88	84	82	80	79	1
2	78	77	75	75	75	75	75	76	84	88	92	95	99	98	90	83	85	85	83	82	81	80	78	75	2
3	75	74	74	70	71	71	71	72	75	83	91	96	98	97	94	93	96	94	91	87	85	82	81	80	3
4	79	78	77	75	75	75	73	75	79	80	80	83	85	87	83	70	64	61	60	59	60	59	59	58	4
5	58	58	57	57	57	56	55	57	62	64	68	70	72	73	73	74	75	73	71	68	66	63	61	59	5
6	57	56	56	55	55	54	55	58	63	68	71	75	75	76	76	77	77	77	75	72	68	66	65	64	6
7	63	63	61	60	59	57	56	57	61	63	65	67	67	67	70	70	69	69	67	64	62	60	58	56	7
8	54	53	52	52	50	49	49	52	58	64	68	68	72	72	73	72	74	73	71	69	67	65	61	59	8
9	60	58	56	55	54	53	54	58	64	67	70	70	74	72	73	77	76	74	72	68	65	64	64	60	9
10	57	57	55	56	55	55	54	55	58	67	72	75	76	79	79	78	78	76	72	69	67	65	64	63	10
11	61	60	60	59	59	59	60	60	57	57	60	64	70	74	75	77	77	77	74	71	70	68	68	68	11
12	67	64	63	62	61	60	59	59	61	63	65	66	68	69	64	62	59	54	53	51	49	48	45	45	12
13	45	45	46	46	44	43	43	45	47	49	52	54	54	56	57	59	59	59	57	54	50	49	48	46	13
14	45	44	42	41	41	42	42	43	46	48	51	54	56	57	60	60	59	60	56	54	52	50	48	48	14
15	47	46	44	44	44	43	44	44	52	56	60	63	67	68	68	71	71	71	68	67	64	61	58	57	15
16	57	55	54	52	50	50	49	51	57	63	65	66	67	67	68	67	68	66	64	63	58	56	53	52	16
17	50	51	50	49	48	47	45	48	52	59	63	65	67	68	71	71	68	67	63	60	58	57	58	58	17
18	57	57	56	57	58	58	58	58	59	60	63	64	67	75	79	80	80	80	75	71	70	70	72	71	18
19	70	69	70	66	65	63	64	64	64	63	64	64	64	64	64	63	63	62	62	63	63	62	60	59	19
20	58	56	56	55	54	55	57	57	58	62	64	67	67	72	74	75	76	71	67	65	60	60	59	58	20
21	58	57	56	56	54	52	50	50	54	57	60	60	61	61	60	60	60	56	54	52	51	49	48	47	21
22	46	45	44	43	42	41	41	42	47	52	54	54	56	59	59	61	59	59	58	56	54	51	50	48	22
23	46	45	44	45	45	44	45	45	49	55	62	64	64	65	67	66	65	64	60	58	55	53	52	52	23
24	50	53	51	51	49	50	49	48	53	59	65	70	73	77	77	78	77	75	71	69	66	65	63	62	24
25	61	61	61	59	58	58	58	59	62	68	71	73	75	75	76	75	72	72	72	70	68	65	63	60	25
26	57	56	53	51	50	49	48	49	55	58	62	63	65	70	72	74	74	71	66	62	60	61	62	64	26
27	66	66	66	67	67	65	61	59	58	60	62	65	66	67	70	70	69	67	65	62	60	57	54	53	27
28	52	50	49	49	47	46	45	47	54	61	63	68	70	75	77	80	80	79	75	73	69	68	68	66	28
29	66	64	62	60	58	57	57	55	61	68	72	76	82	87	86	90	88	79	72	70	68	70	71	77	29
30	78	75	72	69	68	66	64	63	69	68	67	69	71	74	75	75	75	74	69	67	63	62	57	56	30

G 6-HOURLY OBSERVATIONS OF SKY COVER, PRESSURE, PSYCHROMETRIC DATA, AND WIND:

DAY OF MO.	HOUR (LOCAL TIME)	SKY COVER (IN TENTHS)	STATION PRESS. (IN.)	DRY BULB (°F)	WET BULB (°F)	REL. HUM. %	DEW PT. (°F)	WIND DIR.	WIND SPEED	DAY OF MO.	HOUR (LOCAL TIME)	SKY COVER (IN TENTHS)	STATION PRESS. (IN.)	DRY BULB (°F)	WET BULB (°F)	REL. HUM. %	DEW PT. (°F)	WIND DIR.	WIND SPEED	DAY OF MO.	HOUR (LOCAL TIME)	SKY COVER (IN TENTHS)	STATION PRESS. (IN.)	DRY BULB (°F)	WET BULB (°F)	REL. HUM. %	DEW PT. (°F)	WIND DIR.	WIND SPEED	DAY OF MO.	HOUR (LOCAL TIME)	SKY COVER (IN TENTHS)	STATION PRESS. (IN.)	DRY BULB (°F)	WET BULB (°F)	REL. HUM. %	DEW PT. (°F)	WIND DIR.	WIND SPEED
1	01	0	29.21	70	68	90	67	C		1	07	0	29.25	71	69	87	67	WSW	4	1	13	5	29.20	97	74	33	63	WNW	11	1	19	1	29.15	88	75	55	70	SW	7
2	01	0	29.16	77	70	73	67	W	5	2	07	0	29.17	76	69	72	66	W	6	2	13	7	29.12	98	74	32	63	WSW	12	2	19	2	29.08	82	72	62	68	ENE	6
3	01	0	29.09	74	70	81	68	E	2	3	07	0	29.09	72	69	89	68	C		3	13	8	29.03	97	70	26	56	SSW	14	3	19	9	28.98	87	71	45	63	SE	7
4	01	8	28.95	78	72	75	70	SE	2	4	07	4	28.91	75	68	69	64	SSW	9	4	13	10	28.86	87	71	45	63	SW	15	4	19	10	29.01	59	58	90	56	NW	12
5	01	9	29.09	58	56	88	54	WNW	3	5	07	9	29.14	57	55	90	54	WNW	8	5	13	5	29.16	73	57	37	45	NW	12	5	19	0	29.18	68	55	45	46	WNW	8
6	01	0	29.21	56	52	75	49	W	4	6	07	0	29.22	58	53	71	49	W	2	6	13	3	29.17	76	57	28	41	SW	10	6	19	2	29.11	72	57	38	45	SSW	4
7	01	3	29.13	63	56	66	51	NNW	9	7	07	0	29.20	57	54	82	52	NNW	8	7	13	4	29.25	67	54	40	42	NW	17	7	19	1	29.30	64	52	43	41	NW	7
8	01	0	29.37	53	49	75	45	NW	6	8	07	1	29.46	52	48	76	45	NW	8	8	13	7	29.45	72	56	35	43	NW	12	8	19	1	29.44	69	56	44	46	NW	5
9	01	0	29.48	58	53	72	49	NNE	6	9	07	0	29.55	58	52	66	47	N	9	9	13	6	29.57	72	55	30	39	NNE	6	9	19	0	29.47	68	53	35	40	NE	10
10	01	0	29.47	57	51	67	46	NE	10	10	07	0	29.46	55	51	73	47	NE	6	10	13	4	29.38	79	60	32	46	SE	13	10	19	5	29.29	69	57	49	49	SE	10
11	01	5	29.24	60	55	72	51	ENE	7	11	07	10	29.19	60	55	75	52	WNW	7	11	13	7	29.07	74	65	62	60	S	20	11	19	2	28.90	71	67	81	65	E	9
12	01	10	28.80	64	61	86	60	WNW	12	12	07	10	28.76	59	58	95	57	WSW	12	12	13	8	28.81	69	57	47	48	W	24	12	19	10	28.97	51	45	62	39	WNW	23
13	01	9	29.05	45	43	83	40	WNW	15	13	07	7	29.12	45	42	78	38	WNW	18	13	13	9	29.11	56	45	41	32	NW	15	13	19	0	29.13	54	44	44	33	WNW	7
14	01	0	29.15	44	41	83	39	WNW	7	14	07	10	29.16	43	42	88	40	C		14	13	10	29.11	57	48	52	40	SW	7	14	19	1	29.10	54	48	63	42	SW	6
15	01	0	29.06	46	44	88	42	C		15	07	0	29.02	44	42	87	40	C		15	13	10	28.97	68	54	39	42	W	13	15	19	4	28.93	67	56	51	48	W	7
16	01	0	28.95	55	50	72	46	WSW	6	16	07	0	29.02	51	49	87	47	WNW	12	16	13	5	29.05	67	55	47	46	WNW	15	16	19	0	29.11	63	53	52	45	NNE	6
17	01	0	29.18	51	48	84	46	ENE	4	17	07	0	29.27	48	45	80	42	NE	9	17	13	2	29.26	68	55	41	44	SE	10	17	19	0	29.25	60	54	69	50	SSE	11
18	01	10	29.25	57	54	84	52	ESE	5	18	07	10	29.25	58	55	83	53	ESE	7	18	13	5	29.10	75	60	43	51	S	17	18	19	5	29.03	71	62	60	57	SSE	8
19	01	10	28.96	69	59	57	53	SSW	7	19	07	10	28.98	64	61	86	59	WNW	5	19	13	10	29.00	64	63	93	62	SW	11	19	19	10	28.92	63	62	97	62	SW	10
20	01	10	28.95	56	56	100	56	SW	6	20	07	10	28.96	57	57	100	57	SW	9	20	13	0	28.89	72	63	62	58	SW	18	20	19	10	28.92	65	56	59	50	NW	15
21	01	10	29.02	57	55	88	54	WNW	7	21	07	1	29.10	50	49	93	48	WNW	7	21	13	7	29.17	61	49	41	37	NW	20	21	19	3	29.29	52	48	74	44	NW	10
22	01	0	29.40	45	43	85	41	NW	7	22	07	0	29.50	42	41	92	40	NW	8	22	13	5	29.53	59	47	41	35	NNW	12	22	19	0	29.52	56	48	53	39	C	
23	01	0	29.57	45	44	90	42	C		23	07	3	29.64	45	43	85	41	NE	5	23	13	0	29.59	65	52	38	39	S	7	23	19	0	29.50	58	50	57	43	SE	12
24	01	0	29.47	53	50	82	48	S	5	24	07	1	29.43	48	45	78	41	S	7	24	13	1	29.34	77	59	34	46	SW	15	24	19	2	29.28	69	57	47	48	SSW	7
25	01	9	29.27	61	53	59	47	SW	6	25	07	10	29.21	59	55	77	52	SW	12	25	13	10	29.07	75	65	59	60	SW	19	25	19	6	29.01	70	64	71	60	WSW	11
26	01	0	29.13	56	52	76	48	WNW	6	26	07	0	29.20	49	48	90	47	WSW	5	26	13	2	29.14	70	56	40	45	SW	6	26	19	2	28.99	62	57	71	53	SSE	9
27	01	5	28.86	66	62	80	60	SW	15	27	07	7	28.96	59	55	80	53	NW	10	27	13	0	29.00	67	52	34	38	NW	14	27	19	0	29.05	62	52	49	43	NW	4
28	01	0	29.09	50	46	74	42	NW	6	28	07	0	29.12	47	45	86	43	W	3	28	13	0	29.02	75	56	30	41	WSW	17	28	19	0	29.01	73	58	38	46	WSW	6
29	01	0	29.07	64	55	56	48	NNE	9	29	07	2	29.15	55	53	87	51	ENE	10	29	13	10	29.10	87	64	28	50	SE	6	29	19	0	29.04	70	62	65	57	SSE	10
30	01	3	29.05	75	55	26	38	SW	15	30	07	0	29.15	63	53	50	46	W	8	30	13	0	29.31	74	59	40	48	N	13	30	19	0	29.39	67	51	31	35	NNW	5
	01	3	29.16	59	54	76	51	WNW	6		07	4	29.19	56	53	82	50	WNW	7		13	5	29.16	73	58	42	47	SW	13		19	3	29.15	66	57	57	49	NW	8

Station pressure in Table G obtained from barometer at 777 feet above mean sea level.

W.R.P.C., Kansas City, Mo. -- 10-21-53 -- 650

Supplement
(Formerly Special Meteorological Summaries)

U. S. DEPARTMENT OF COMMERCE, WEATHER BUREAU

LOCAL CLIMATOLOGICAL DATA

DETROIT, MICHIGAN
WILLOW RUN AIRPORT
AUGUST 1953

(Based on one month's record)

A TEMPERATURE AND WIND SPEED --- RELATIVE HUMIDITY OCCURRENCES (HOURLY OBSERVATIONS):

WIND	0-4 M.P.H.						5-14 M.P.H.						15-24 M.P.H.						25 M.P.H. AND OVER						TOTAL OBS
REL. HUMID. / TEMP. (°F)	UNDER 30	30-49%	50-69%	70-79%	80-89%	90-100%	UNDER 30	30-49%	50-69%	70-79%	80-89%	90-100%	UNDER 30	30-49%	50-69%	70-79%	80-89%	90-100%	UNDER 30	30-49%	50-69%	70-79%	80-89%	90-100%	
99/95	1	1					10	2					1												15
94/90							17	8						3											28
89/85		1	2				4	26	10				1	2	2	1									49
84/80		6	6					67	17					4	2		1								103
79/75		6	5	1			3	37	39	9	5	1		1	6	1		1				1			116
74/70		3	11	2	4	2		25	53	23	12	4		2	2	3	1	2							149
69/65		2	6	9	5	2		8	20	29	38	26		2	1	2	2								152
64/60			6	3	8	6			7	20	22	18					5								95
59/55			2		1				9	8	8	6													34
54/50										2	1														3

B WIND DIRECTION AND SPEED OCCURRENCES:

DIRECTION	HOURLY OBSERVATIONS OF WIND SPEED (IN MILES PER HOUR)										AV. SPEED
	0 - 3	4 - 7	8 - 12	13 - 18	19 - 24	25 - 31	32 - 38	39 - 46	47 OVER	TOTAL	
N	2	22	19	11						54	8.8
NNE	1	19	14	12	1	1				48	10.0
NE	2	10	15	4						31	8.6
ENE	2	10	10	2						24	8.0
E	3	8	8	4						23	8.0
ESE		7	13	8	1					29	10.9
SE		4	9	5						18	10.2
SSE		6	5	4						15	9.6
S	1	3	4							8	7.3
SSW	1	17	11	1						30	7.6
SW	4	27	23	8	1					63	8.4
WSW	9	35	23	12						79	7.8
W	1	34	14	4	1					54	7.5
WNW	1	34	20	7						62	7.8
NW	5	36	48	4	1					94	8.2
NNW	2	27	47	10						86	8.8
CALM	26									26	0.0
TOTAL	60	299	283	96	5	1				744	8.2

C HOURLY OCCURRENCES OF PRECIPITATION AMOUNTS:

INTENSITIES	FREQUENCY OF OCCURRENCE FOR EACH HOUR OF THE DAY																								INTENSITIES
	A.M. HOUR ENDING AT												P.M. HOUR ENDING AT											MID TO MID	
	1	2	3	4	5	6	7	8	9	10	11	NOON	1	2	3	4	5	6	7	8	9	10	11	MID	
TRACE	2		1				2	1	1		1			1	1	1	2	1	1	2		1	1		4	TRACE
01 IN				1				1	1										1							01 IN
02 TO 09 IN	1	2	1		2		1									1		1						1	2	02 TO 09 IN
10 TO 24 IN								1								1									2	10 TO 24 IN
25 TO 49 IN																						1		1	1	25 TO 49 IN
50 TO 99 IN																1							1		1	50 TO 99 IN
1.00 TO 1.99 IN																									1	1.00 TO 1.99 IN
2.00 IN AND OVER																										2.00 IN AND OVER
TOTAL	3	2	2	1	2		3	3	2		1			1	1	4	2	2	2	2		2	2	2	11	TOTAL

D CEILING --- VISIBILITY OCCURRENCES (HOURLY OBSERVATIONS):

VISIBILITY (MILES)	CEILING (FEET)									
	0	100-200	300-400	500-900	1000-1900	2000-2900	3000-4900	5000-9500	OVER 9500	TOT.
0 TO 1/16										0
1/16 TO 1/8										0
1/8 TO 1/4										0
1 TO 2½			1					2	5	8
3 TO 6			1	2	6	3	1	4	57	74
7 TO 15					17	17	14	45	569	662
20 TO 30										0
35 OR MORE										0
TOTAL			2	2	23	20	15	51	631	744

E HOURLY OCCURRENCES OF SKY COVER, WIND, AND RELATIVE HUMIDITY:

HOUR OF DAY	CLOUDS SCALE - 10			WIND SPEED (MPH)								RELATIVE HUMIDITY (%)									HOUR OF DAY
	0-3	4-7	8-10	0	1-3	4-7	8-12	13-18	19-24	25-38	OVER 38	0-19	20-29	30-39	40-49	50-59	60-69	70-79	80-89	90-100	
00	22	1	8	1	4	14	11		1							4	5	12	6	4	00
01	19	3	9	2		20	8	1								4	4	12	7	4	01
02	19	4	8	2	1	12	14	2								1	7	7	11	5	02
03	21	2	8	2	4	14	10	1							1	2	4	7	11	6	03
04	21	3	7	1	1	17	11	1								3	2	7	12	7	04
05	19	3	9		2	16	12	1								3		8	9	11	05
06	20	2	9	2	2	13	11	3								1	5	4	11	10	06
07	18	3	10	2	1	12	14	2								2	5	7	11	6	07
08	19	4	8	2	1	12	14	2							4	5	9	5	5	3	08
09	22	3	6		1	11	12	6	1					5	6	7	4	6	3		09
10	20	4	7			8	15	8					1	7	9	6	2	4	2		10
11	14	9	8	1		9	15	6					3	10	10	1	3	3	1		11
12	14	7	10		1	8	12	9	1				5	11	8	1	4	1	1		12
13	14	8	9		1	5	14	11				1	5	12	6	2	4		1		13
14	13	8	10			9	13	8	1			2	4	14	3	4	2	1		1	14
15	14	8	9			7	15	9				1	5	11	4	7	1	1		1	15
16	15	4	12	1	1	10	12	7					7	10	5	5	2	1	1		16
17	16	5	10			9	11	10	1				3	13	4	5	5		1		17
18	15	9	7		2	11	13	5						14	4	5	5	2	1		18
19	19	4	8		1	15	14	1						7	9	3	8	2	1	1	19
20	22	2	7	2	4	13	11	1						1	10	7	3	7	2	1	20
21	20	3	8	2	4	14	9	1		1				2	5	8	5	6	4	1	21
22	21	3	7	4	1	18	7	1							1	9	8	5	5	3	22
23	23	4	4	2	2	22	5									4	10	6	7	4	23
	440	106	198	26	34	299	283	96	5	1		4	33	117	89	99	107	114	113	68	

F HOURLY TEMPERATURES (READ ABOUT 20 MINUTES AFTER THE HOUR)

DAY OF MO.	MID.	1 A.M.	2 A.M.	3 A.M.	4 A.M.	5 A.M.	6 A.M.	7 A.M.	8 A.M.	9 A.M.	10 A.M.	11 A.M.	NOON	1 P.M.	2 P.M.	3 P.M.	4 P.M.	5 P.M.	6 P.M.	7 P.M.	8 P.M.	9 P.M.	10 P.M.	11 P.M.	DAY OF MO.
1	74	72	66	66	66	66	67	68	70	74	79	83	84	85	85	89	89	88	85	82	79	77	70	69	1
2	68	68	69	69	69	69	69	70	71	73	72	73	73	72	73	75	75	75	73	73	71	70	70	69	2
3	68	68	67	68	68	67	68	69	72	72	72	74	75	75	77	78	79	79	75	74	71	69	68	68	3
4	67	67	69	69	68	68	68	70	74	78	80	86	86	87	75	75	79	82	83	81	79	77	76	75	4
5	70	66	63	62	61	61	61	62	63	63	65	65	68	70	72	73	73	74	72	71	68	65	63	62	5
6	61	60	59	58	59	59	59	61	67	71	76	75	80	82	80	80	79	78	77	74	72	70	67	66	6
7	65	65	64	64	63	64	64	66	70	75	79	82	82	84	82	82	81	69	67	68	67	66	66	66	7
8	65	65	64	64	64	62	63	64	66	68	68	72	76	74	74	76	75	76	75	71	66	64	63	62	8
9	61	61	60	60	60	61	61	63	65	68	68	71	71	75	77	78	74	75	73	71	68	66	65	64	9
10	62	60	60	59	58	58	58	62	66	70	74	77	75	77	78	79	81	78	76	75	73	71	68	65	10
11	64	63	62	61	60	60	58	62	68	72	75	80	83	84	85	85	84	83	80	76	73	71	70	70	11
12	69	69	68	67	66	65	65	66	70	75	80	84	83	84	81	80	80	81	80	77	76	74	73	72	12
13	69	68	67	67	65	65	65	67	71	76	80	82	83	80	84	82	85	85	84	80	77	74	73	71	13
14	69	69	68	67	65	63	63	65	71	76	81	83	85	84	85	87	88	86	84	81	78	76	75	74	14
15	73	71	68	66	64	62	62	64	67	70	73	73	75	77	80	76	76	76	75	73	71	71	69	66	15
16	66	64	63	62	61	60	60	61	68	72	76	76	79	81	81	78	80	80	77	74	70	67	65	61	16
17	60	60	58	58	57	55	56	59	63	66	66	68	71	71	74	72	73	73	71	69	68	64	62	60	17
18	60	58	57	55	54	54	53	57	63	67	67	69	70	72	72	73	75	74	72	70	68	67	62	61	18
19	59	57	58	57	57	56	56	60	66	69	71	72	75	76	75	77	75	73	73	69	66	65	64	64	19
20	60	59	58	57	55	55	56	59	67	70	73	77	81	79	79	82	82	82	79	77	74	71	69	66	20
21	63	64	62	63	62	61	60	63	71	78	80	81	83	83	82	85	83	83	82	79	77	77	71	70	21
22	67	66	65	64	63	63	62	64	71	77	81	83	82	85	85	85	85	83	82	79	76	73	72	70	22
23	69	68	67	65	65	63	62	66	72	75	78	80	80	84	84	84	85	84	82	80	77	75	70	69	23
24	67	68	67	65	64	63	62	64	69	75	79	80	80	82	82	84	85	85	82	80	77	75	72	70	24
25	69	69	67	67	66	65	64	65	73	78	83	87	86	89	92	91	90	89	85	81	78	75	73	72	25
26	71	71	70	70	68	67	67	70	79	84	87	89	93	93	94	94	94	92	90	89	83	81	77	74	26
27	72	71	71	70	69	68	67	70	79	85	89	92	95	95	95	96	92	93	89	85	81	78	77	75	27
28	73	73	71	69	68	66	67	69	80	87	90	92	93	95	95	95	95	93	90	87	82	83	78	75	28
29	75	73	73	75	72	70	67	69	74	81	87	90	94	96	97	95	95	93	90	87	84	80	77	75	29
30	75	74	70	70	70	70	70	72	81	85	90	93	92	93	94	88	85	83	86	82	81	80	79	78	30
31	76	76	75	75	73	73	72	74	81	85	88	92	95	95	96	89	83	80	77	74	74	74	71	71	31

G 6-HOURLY OBSERVATIONS OF SKY COVER, PRESSURE, PSYCHROMETRIC DATA, AND WIND:

DAY OF MO.	HOUR (LOCAL TIME)	SKY COVER (IN TENTHS)	STATION PRESS. (IN.)	DRY BULB (°F)	WET BULB (°F)	REL. HUM. %	DEW PT. (°F)	WIND DIR.	WIND SPEED	DAY OF MO.	HOUR (LOCAL TIME)	SKY COVER (IN TENTHS)	STATION PRESS. (IN.)	DRY BULB (°F)	WET BULB (°F)	REL. HUM. %	DEW PT. (°F)	WIND DIR.	WIND SPEED	DAY OF MO.	HOUR (LOCAL TIME)	SKY COVER (IN TENTHS)	STATION PRESS. (IN.)	DRY BULB (°F)	WET BULB (°F)	REL. HUM. %	DEW PT. (°F)	WIND DIR.	WIND SPEED	DAY OF MO.	HOUR (LOCAL TIME)	SKY COVER (IN TENTHS)	STATION PRESS. (IN.)	DRY BULB (°F)	WET BULB (°F)	REL. HUM. %	DEW PT. (°F)	WIND DIR.	WIND SPEED
1	01	10	29.28	72	65	69	61	W	7	1	07	10	29.24	68	64	84	63	SW	9	1	13	9	29.18	85	73	57	68	SSW	4	1	19	5	29.09	82	72	64	68	SE	10
2	01	10	29.12	68	68	98	68	SW	5	2	07	10	29.15	70	69	94	68	NNW	12	2	13	10	29.21	72	68	80	66	ENE	16	2	19	10	29.25	73	67	75	64	ESE	9
3	01	10	29.27	68	64	81	62	E	10	3	07	10	29.29	69	64	77	62	E	13	3	13	10	29.28	75	67	68	63	ESE	18	3	19	2	29.23	74	66	66	62	SE	7
4	01	8	29.15	67	65	88	63	E	8	4	07	10	29.05	70	69	96	69	S	6	4	13	7	28.91	87	76	60	72	SW	16	4	19	10	28.90	81	72	66	69	WNW	11
5	01	10	28.97	66	63	86	61	NNE	18	5	07	10	29.08	62	59	82	57	NNE	15	5	13	6	29.15	70	62	64	57	ENE	18	5	19	2	29.19	71	63	64	58	NE	10
6	01	1	29.24	60	57	83	55	NE	6	6	07	3	29.26	61	59	86	57	ENE	8	6	13	5	29.25	82	65	40	55	S	11	6	19	9	29.22	74	64	57	58	SSE	5
7	01	4	29.22	65	62	85	60	ENE	8	7	07	9	29.22	66	64	91	63	NE	5	7	13	10	29.17	84	66	39	56	SSW	8	7	19	9	29.12	68	66	90	65	ESE	8
8	01	10	29.06	65	64	94	63	ESE	9	8	07	10	29.07	64	63	93	62	WNW	8	8	13	6	29.08	74	64	59	58	NNE	10	8	19	4	29.07	71	63	66	59	NNW	12
9	01	0	29.10	61	60	96	59	NW	7	9	07	10	29.13	63	62	94	62	NNW	9	9	13	4	29.13	75	66	62	61	N	10	9	19	4	29.17	71	65	73	62	N	9
10	01	0	29.22	60	56	77	53	NW	9	10	07	0	29.28	62	58	77	55	NNW	8	10	13	3	29.28	77	59	35	46	NNW	9	10	19	0	29.28	75	61	43	51	NE	4
11	01	0	29.32	63	59	7[illegible]	56	C		11	07	0	29.34	62	58	78	55	ESE	5	11	13	4	29.34	84	68	43	59	SSW	7	11	19	0	29.30	76	68	66	64	SSE	14
12	01	0	29.30	69	66	89	65	SSE	7	12	07	3	29.31	66	63	84	61	SSW	8	12	13	10	29.28	84	70	49	63	WSW	16	12	19	9	29.28	77	68	64	64	WNW	7
13	01	0	29.31	68	66	91	65	NW	10	13	07	0	29.34	67	65	90	64	NNW	9	13	13	4	29.32	80	65	43	56	NE	6	13	19	0	29.25	80	68	55	62	SW	6
14	01	0	29.25	69	64	78	62	W	5	14	07	2	29.26	65	62	86	61	WSW	5	14	13	0	29.17	84	67	41	58	WSW	13	14	19	3	29.10	81	68	51	61	WSW	8
15	01	5	29.16	71	65	73	62	N	8	15	07	1	29.24	64	59	79	57	NNW	8	15	13	9	29.27	77	60	36	48	NNW	12	15	19	10	29.24	73	60	49	52	N	6
16	01	8	29.25	64	59	76	56	WNW	5	16	07	8	29.26	61	58	82	56	C		16	13	5	29.23	81	62	34	50	WSW	14	16	19	1	29.22	74	58	38	47	NW	12
17	01	0	29.28	60	57	84	55	NNE	10	17	07	0	29.37	59	55	80	53	NNW	8	17	13	2	29.36	71	55	32	40	NNE	10	17	19	0	29.32	69	56	43	46	N	5
18	01	0	29.36	58	52	67	47	NW	7	18	07	7	29.37	57	53	75	49	NW	9	18	13	3	29.35	72	57	38	45	NNW	13	18	19	0	29.29	70	54	35	41	NNE	6
19	01	0	29.29	57	53	76	49	W	5	19	07	2	29.31	60	53	64	48	NW	8	19	13	1	29.29	76	56	25	37	NNW	13	19	19	0	29.28	69	56	44	46	N	9
20	01	0	29.32	59	53	69	49	C		20	07	0	29.36	59	52	65	47	NW	8	20	13	2	29.34	79	61	35	49	NNE	7	20	19	0	29.32	77	62	42	52	NW	6
21	01	0	29.35	64	59	77	56	W	6	21	07	0	29.40	63	58	74	55	NW	7	21	13	3	29.39	83	63	32	50	NNE	8	21	19	0	29.36	79	63	43	54	NNE	5
22	01	0	29.39	66	61	76	58	WNW	4	22	07	1	29.41	64	60	81	58	WNW	4	22	13	2	29.35	85	64	31	51	NW	10	22	19	1	29.28	79	62	38	51	NNW	6
23	01	2	29.29	68	62	72	59	WNW	5	23	07	0	29.30	66	63	85	61	NNW	8	23	13	3	29.27	84	65	36	54	NW	10	23	19	2	29.20	80	64	40	53	N	4
24	01	0	29.24	68	61	70	57	NNW	7	24	07	0	29.28	64	60	80	57	NNW	7	24	13	2	29.28	82	64	38	54	N	3	24	19	4	29.25	80	64	42	55	N	3
25	01	9	29.28	69	62	69	58	WSW	6	25	07	9	29.33	65	60	74	57	W	6	25	13	0	29.31	89	64	24	47	SW	8	25	19	3	29.28	81	66	46	58	S	8
26	01	0	29.29	71	61	58	55	WSW	7	26	07	0	29.32	70	62	59	55	W	6	26	13	0	29.30	93	67	25	52	WNW	12	26	19	3	29.27	89	67	33	55	SSE	5
27	01	0	29.28	71	65	71	61	WSW	7	27	07	0	29.32	70	62	65	58	WSW	3	27	13	10	29.28	95	68	24	52	WSW	12	27	19	8	29.22	85	67	38	57	SSW	9
28	01	8	29.23	73	62	55	56	W	4	28	07	4	29.26	69	61	62	56	WNW	4	28	13	0	29.21	95	66	19	47	WNW	13	28	19	0	29.15	87	68	38	58	SSE	6
29	01	0	29.17	73	63	59	58	WSW	7	29	07	0	29.19	69	61	64	56	SW	5	29	13	0	29.15	96	69	25	54	SW	11	29	19	0	29.10	87	67	35	56	SSW	9
30	01	0	29.13	74	63	55	57	SW	7	30	07	4	29.14	72	62	56	56	WSW	7	30	13	8	29.12	93	71	34	61	WSW	14	30	19	3	29.09	82	73	64	69	SW	9
31	01	4	29.14	76	70	73	67	WSW	5	31	07	0	29.20	74	70	84	68	C		31	13	9	29.18	95	75	40	67	WSW	6	31	19	8	29.20	74	71	84	69	E	5
	01	3	29.23	67	62	77	58	W	7		07	4	29.26	65	61	79	58	NNW	7		13	5	29.24	83	65	41	55	WSW	11		19	4	29.21	77	65	53	58	N	8

Station pressure in Table G obtained from barometer at 777 feet above mean sea level.

W.R.P.C., Kansas City, Mo., -- 9-23-53 -- 650

RESPONDENT'S EXHIBIT No. 3 (SHEET 10)

(SHEET 11)

Supplement
(Formerly Special Meteorological Summaries)

U. S. DEPARTMENT OF COMMERCE, WEATHER BUREAU

LOCAL CLIMATOLOGICAL DATA

DETROIT, MICHIGAN
CITY AIRPORT
AUGUST 1953

(Based on one month's record)

A TEMPERATURE AND WIND SPEED---RELATIVE HUMIDITY OCCURRENCES (HOURLY OBSERVATIONS):

WIND	0-4 M.P.H.						5-14 M.P.H.						15-24 M.P.H.						25 M.P.H. AND OVER						TOTAL OBS.
REL. HUMID. / TEMP. (°F)	UNDER 30	30-49%	50-69%	70-79%	80-89%	90-100%	UNDER 30	30-49%	50-69%	70-79%	80-89%	90-100%	UNDER 30	30-49%	50-69%	70-79%	80-89%	90-100%	UNDER 30	30-49%	50-69%	70-79%	80-89%	90-100%	
99/95		1					7	4						1											13
94/90							15	13	1				1							1					31
89/85		1	1				1	33	5					1	2										44
84/80		6	3	1				63	25	3				3	1	1									106
79/75		3	13	2	1			36	52	9	6			3	1	1									127
74/70		2	24	10	11	3		24	54	31	14	10		5	2	1									191
69/65		2	5	16	11	10		3	15	22	31	8		2		1									126
64/60			7	3	9				7	16	20	8					1								71
59/55			2	3	5	2				12	5	2													31
54/50										3	1														4

B WIND DIRECTION AND SPEED OCCURRENCES:

DIRECTION	HOURLY OBSERVATIONS OF WIND SPEED (IN MILES PER HOUR)									TOTAL	AV. SPEED
	0-3	4-7	8-12	13-18	19-24	25-31	32-38	39-46	47 OVER		
N	11	41	53	26	1					132	8.9
NNE	3	9	16	4						32	8.3
NE	4	5	4							13	6.2
ENE	2	7	2							11	5.5
E	5	22	11	1						39	6.7
ESE	3	10	12	3						28	8.1
SE	6	19	13							38	6.1
SSE	3	15	7	1						26	6.8
S	6	34	28	1						69	7.1
SSW	1	17	11	4						33	7.8
SW	6	19	13	2						40	7.0
WSW	1	15	9	6						31	8.4
W	5	29	23	4						61	7.4
WNW	6	15	27	1	1	1				51	8.4
NW	3	41	26	11						81	7.9
NNW	3	14	22	3						42	8.4
CALM	17									17	0.0
TOTAL	85	312	277	67	2	1				744	7.6

C HOURLY OCCURRENCES OF PRECIPITATION AMOUNTS:

INTENSITIES	FREQUENCY OF OCCURRENCE FOR EACH HOUR OF THE DAY																								MID TO MID	INTENSITIES
	A.M. HOUR ENDING AT												P.M. HOUR ENDING AT													
	1	2	3	4	5	6	7	8	9	10	11	NOON	1	2	3	4	5	6	7	8	9	10	11	MID		
TRACE	1	3	2	2				1	1		1	2	2	1		3	1	1			1		1	1	4	TRACE
01 IN.	1						1	1																1	1	01 IN.
02 TO 09 IN	1				1	1									1				1	2	1			1	1	02 TO 09 IN
10 TO 24 IN																1			1				1		3	10 TO 24 IN
25 TO 49 IN																	1					1			1	25 TO 49 IN
50 TO 99 IN																									1	50 TO 99 IN
1.00 TO 1.99 IN																										1.00 TO 1.99 IN
2.00 IN AND OVER																										2.00 IN AND OVER
TOTAL	3	3	2	2	1	1	1	2	1		1	2	2	1	1	4	2	1	2	2	2	1	2	3	11	TOTAL

CEILING---VISIBILITY
D OCCURRENCES (HOURLY OBSERVATIONS):

VISIBILITY (MILES)	CEILING (FEET)										VOT.
	0	100-200	300-400	500-900	1000-1900	2000-2900	3000-4900	5000-9900	OVER 9900		
0 TO 1/16											0
1/16 TO 1/8											0
1/8 TO 1/4											0
1 TO 2 1/2							4	1	9	14	
3 TO 6				5	10	5	14	11	243	288	
7 TO 15				2	16	11	21	26	366	442	
20 TO 30											0
35 OR MORE											0
TOTAL				7	26	16	39	38	618	744	

E HOURLY OCCURRENCES OF SKY COVER, WIND, AND RELATIVE HUMIDITY:

HOUR OF DAY	CLOUDS SCALE - 10			WIND SPEED (MPH)								RELATIVE HUMIDITY (%)									HOUR OF DAY
	0-3	4-7	8-10	0	1-3	4-7	8-12	13-18	19-24	25-38	OVER 38	0-19	20-29	30-39	40-49	50-59	60-69	70-79	80-89	90-100	
00	20	1	10	2	7	17	4	1										8	9	12	2	00
01	23	1	7	3	5	17	5	1									1	10	6	11	3	01
02	21	3	7	2	3	22	4										1	3	9	13	3	02
03	23	1	7	1	6	19	5										1	1	14	10	5	03
04	21	3	7	1	4	19	7										1	2	13	8	7	04
05	18	4	9	1	3	22	4	1									3	1	8	12	7	05
06	17	6	8	1	5	15	9	1									2	1	11	11	6	06
07	18	5	8	1	5	13	10	2									4	7	11	5	4	07
08	20	4	7		4	10	16	1								5	8	9	4	5		08
09	19	5	7	1	1	10	16	3							4	8	7	6	2	4		09
10	21	4	6		1	11	14	5						1	5	10	7	4	3	1		10
11	17	7	7		2	8	14	7						1	8	13	1	4	3	1		11
12	14	9	8			4	20	6	1					3	8	12	2	3	2	1		12
13	13	7	11			6	16	8		1				5	11	7	4	3		1		13
14	10	13	8			8	18	5						4	11	7	5	3	1			14
15	10	11	10			7	20	4						3	13	6	3	4		2		15
16	11	11	9		1	5	16	8	1					4	12	5	5	4	1			16
17	12	9	10			9	18	4						2	11	7	5	4	1	1		17
18	17	6	8		2	7	18	4						1	8	10	5	5		2		18
19	17	6	8		2	15	11	3							3	9	9	7	1	1	1	19
20	18	6	7		5	16	9	1								10	6	7	6	1	1	20
21	21	4	6		1	22	8									3	8	9	7	3	1	21
22	22	1	8	3	4	15	8	1								1	6	7	11	4	2	22
23	21	4	6	1	7	15	7	1									2	10	12	6	1	23
	424	131	189	17	68	312	277	67	2	1				24	94	113	96	124	135	115	43	

F HOURLY TEMPERATURES (READ ABOUT 20 MINUTES AFTER THE HOUR)

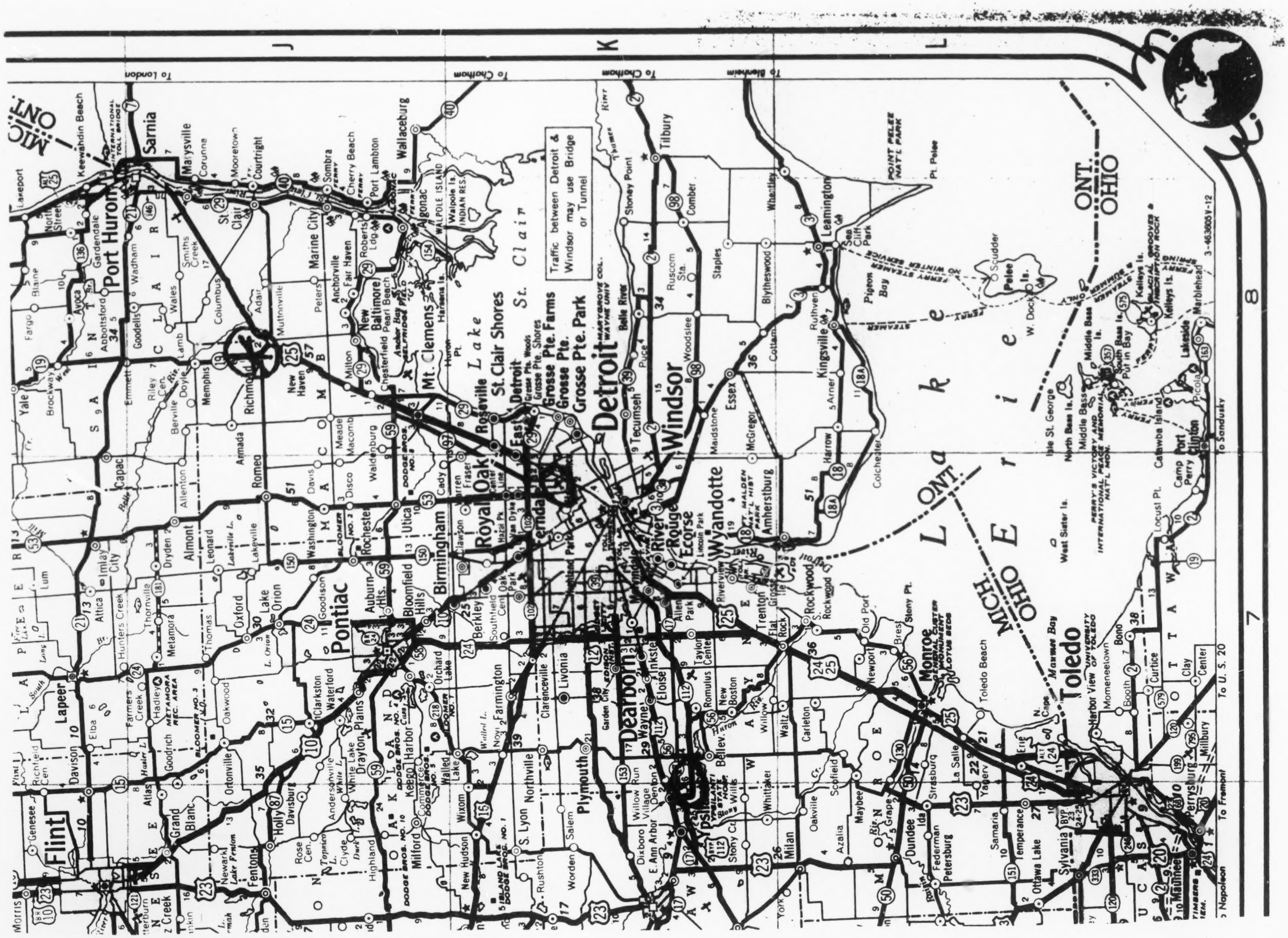
DAY OF MO.	MID.	1 A.M.	2 A.M.	3 A.M.	4 A.M.	5 A.M.	6 A.M.	7 A.M.	8 A.M.	9 A.M.	10 A.M.	11 A.M.	NOON	1 P.M.	2 P.M.	3 P.M.	4 P.M.	5 P.M.	6 P.M.	7 P.M.	8 P.M.	9 P.M.	10 P.M.	11 P.M.	DAY OF MO.
1	75	76	73	73	70	72	71	74	76	77	81	83	84	80	82	84	83	82	81	79	78	74	70	70	1
2	69	70	70	70	69	70	71	72	74	69	70	69	69	70	73	74	75	75	74	74	71	71	71	71	2
3	70	70	70	69	70	69	69	70	72	72	73	71	74	75	76	76	76	76	74	72	71	70	70	70	3
4	70	71	71	71	71	70	71	71	75	77	81	84	88	88	86	79	81	82	83	82	80	79	78	77	4
5	67	64	62	62	62	63	63	63	64	64	64	65	67	70	71	73	74	74	74	71	68	66	64	62	5
6	61	60	61	59	59	59	61	65	70	73	73	76	76	78	78	76	78	76	76	73	72	70	69	69	6
7	68	67	68	67	67	65	64	69	73	78	80	81	83	83	82	83	82	80	68	67	67	68	68	66	7
8	67	65	65	66	65	64	65	65	67	68	70	72	74	74	76	77	79	76	75	72	69	66	65	63	8
9	63	62	61	61	61	63	63	65	66	68	71	73	74	76	77	73	76	75	74	71	69	67	65	64	9
10	63	62	61	59	59	58	60	63	67	71	73	76	77	79	79	80	81	80	79	75	72	69	66	65	10
11	63	61	61	59	58	59	59	66	72	75	78	79	81	82	81	83	83	82	81	76	73	72	70	69	11
12	69	68	68	68	68	68	69	71	74	77	82	83	84	87	85	84	81	80	80	79	77	76	75	73	12
13	73	70	69	68	67	66	66	69	73	77	80	83	83	84	83	84	84	82	80	79	76	74	73	70	13
14	71	71	69	68	67	66	65	70	76	80	81	83	85	87	88	88	88	87	86	83	80	79	79	77	14
15	75	73	70	68	65	63	63	66	69	71	74	74	75	76	77	77	77	77	75	74	73	71	68	70	15
16	66	65	65	64	63	61	61	63	69	72	74	77	77	79	80	81	79	76	77	75	72	68	65	63	16
17	62	60	59	59	57	56	57	60	63	65	68	70	71	72	73	73	72	73	72	70	68	64	64	62	17
18	59	57	56	54	53	52	54	60	63	66	68	70	71	72	75	75	75	74	73	71	68	61	59	60	18
19	60	59	57	57	57	56	55	62	65	68	72	74	74	75	76	75	75	74	74	71	67	65	63	61	19
20	60	58	57	56	56	57	57	61	67	73	74	76	79	80	79	84	81	80	79	76	72	71	67	65	20
21	66	63	63	63	62	62	61	65	72	76	81	82	82	83	81	83	83	79	80	77	74	72	69	70	21
22	67	66	66	66	65	65	64	66	70	74	80	83	83	82	85	85	87	86	80	76	73	72	71	72	22
23	71	70	69	67	65	64	65	67	72	76	80	82	81	83	84	85	84	85	82	77	74	72	71	69	23
24	68	70	67	66	64	63	63	67	72	75	78	80	82	83	85	85	84	85	81	77	74	74	72	72	24
25	70	69	67	67	66	65	65	69	75	79	83	85	87	87	90	92	90	86	85	82	78	76	76	76	25
26	75	74	74	71	72	72	72	75	78	82	86	89	94	93	96	95	94	93	91	86	83	82	79	78	26
27	74	74	72	72	71	71	69	74	80	85	89	91	92	94	93	93	93	92	89	86	84	81	81	77	27
28	76	74	72	70	69	68	67	73	79	86	90	92	94	95	93	93	95	94	92	85	81	79	78	76	28
29	74	76	74	73	72	72	71	75	81	85	89	92	95	96	96	95	94	92	90	87	83	81	80	78	29
30	76	75	73	72	72	72	73	76	81	86	91	94	96	93	97	78	85	84	85	83	81	80	79	79	30
31	79	78	75	74	74	73	74	78	83	85	87	90	93	95	96	95	88	76	75	73	74	72	73	72	31

G 6-HOURLY OBSERVATIONS OF SKY COVER, PRESSURE, PSYCHROMETRIC DATA, AND WIND:

DAY OF MO.	HOUR (LOCAL TIME)	SKY COVER (IN TENTHS)	STATION PRESS. (IN.)	DRY BULB (°F)	WET BULB (°F)	REL. HUM. %	DEW PT. (°F)	WIND DIR.	WIND SPEED	DAY OF MO.	HOUR (LOCAL TIME)	SKY COVER (IN TENTHS)	STATION PRESS. (IN.)	DRY BULB (°F)	WET BULB (°F)	REL. HUM. %	DEW PT. (°F)	WIND DIR.	WIND SPEED	DAY OF MO.	HOUR (LOCAL TIME)	SKY COVER (IN TENTHS)	STATION PRESS. (IN.)	DRY BULB (°F)	WET BULB (°F)	REL. HUM. %	DEW PT. (°F)	WIND DIR.	WIND SPEED	DAY OF MO.	HOUR (LOCAL TIME)	SKY COVER (IN TENTHS)	STATION PRESS. (IN.)	DRY BULB (°F)	WET BULB (°F)	REL. HUM. %	DEW PT. (°F)	WIND DIR.	WIND SPEED
1	01	10	29.43	76	66	61	62	E	3	1	07	10	29.40	74	67	71	64	SSW	10	1	13	10	29.35	80	72	68	69	SE	6	1	19	8	29.27	79	72	69	69	SE	8
2	01	10	29.27	70	69	95	68	S	3	2	07	10	29.31	72	70	90	69	WNW	11	2	13	10	29.39	70	66	82	64	NE	5	2	19	10	29.42	74	67	69	63	ENE	4
3	01	10	29.43	70	62	65	58	E	10	3	07	10	29.48	70	65	79	63	E	9	3	13	9	29.47	75	65	59	60	ESE	16	3	19	0	29.41	72	64	66	60	SE	9
4	01	10	29.32	71	67	83	65	SE	7	4	07	10	29.21	71	70	95	70	SSE	7	4	13	8	29.07	88	77	62	73	WSW	14	4	19	10	29.06	82	74	68	70	NW	17
5	01	10	29.14	64	62	88	61	N	16	5	07	10	29.24	63	60	83	58	N	14	5	13	9	29.31	70	62	65	58	NNE	13	5	19	3	29.36	71	62	63	58	NNE	10
6	01	0	29.41	69	58	86	56	NNE	5	6	07	5	29.43	65	62	82	60	ENE	5	6	13	3	29.42	78	66	51	59	ENE	10	6	19	7	29.39	73	63	58	57	E	4
7	01	3	29.39	67	64	83	62	E	4	7	07	2	29.38	69	65	83	63	NE	3	7	13	10	29.34	83	69	49	62	SSE	10	7	19	10	29.29	67	65	90	64	E	6
8	01	10	29.23	65	63	91	62	ESE	3	8	07	10	29.22	65	63	91	62	WSW	8	8	13	6	29.24	74	63	56	57	NW	9	8	19	1	29.23	72	64	64	59	N	9
9	01	3	29.27	62	60	91	59	NW	5	9	07	10	29.29	65	63	91	62	NNE	9	9	13	8	29.29	76	66	59	61	N	14	9	19	1	29.33	71	65	70	61	N	15
10	01	0	29.37	62	57	72	53	N	9	10	07	0	29.43	63	58	75	55	NNW	13	10	13	1	29.45	79	63	41	53	NW	9	10	19	0	29.45	75	64	53	57	ENE	5
11	01	0	29.49	61	58	83	56	C		11	07	0	29.51	66	59	66	55	ESE	3	11	13	4	29.51	82	66	44	58	WNW	5	11	19	0	29.49	76	66	58	60	S	10
12	01	0	29.49	68	65	86	64	SSE	8	12	07	9	29.49	71	66	77	63	S	8	12	13	8	29.46	87	71	46	63	SW	13	12	19	10	29.45	79	68	58	63	WNW	10
13	01	1	29.48	70	67	85	65	NW	6	13	07	0	29.50	69	65	81	63	NNW	4	13	13	5	29.49	84	67	41	58	SE	7	13	19	2	29.42	79	65	47	57	SSE	4
14	01	0	29.42	71	67	80	64	SSW	4	14	07	0	29.42	70	64	74	61	W	3	14	13	0	29.33	87	68	38	58	SW	9	14	19	1	29.26	83	68	46	60	WSW	13
15	01	1	29.32	73	66	69	62	N	11	15	07	0	29.40	66	59	66	55	N	12	15	13	8	29.42	76	59	36	47	N	14	15	19	10	29.40	74	59	41	49	WNW	6
16	01	8	29.41	65	59	69	55	WNW	6	16	07	7	29.43	63	59	80	57	W	4	16	13	10	29.39	79	63	41	54	NW	8	16	19	0	29.37	75	62	48	54	NW	8
17	01	0	29.46	60	58	87	56	N	5	17	07	0	29.53	60	55	69	50	N	7	17	13	1	29.52	72	56	34	42	N	15	17	19	1	29.49	70	56	42	46	N	7
18	01	0	29.51	57	53	76	50	NW	6	18	07	3	29.54	60	55	73	51	NNW	9	18	13	0	29.51	72	55	32	40	N	10	18	19	0	29.47	71	56	37	44	N	4
19	01	0	29.46	59	53	69	49	WNW	4	19	07	1	29.48	62	54	56	47	NW	9	19	13	0	29.46	75	58	33	44	N	10	19	19	0	29.45	71	57	43	47	N	9
20	01	0	29.49	58	53	74	49	WNW	4	20	07	0	29.51	61	55	68	51	NW	6	20	13	3	29.50	80	63	37	52	NW	5	20	19	2	29.49	76	64	52	57	SE	3
21	01	0	29.51	63	60	81	57	C		21	07	0	29.56	65	60	72	56	NNW	4	21	13	4	29.55	83	64	35	52	NW	5	21	19	4	29.53	77	65	54	59	S	5
22	01	0	29.55	66	62	79	59	WSW	3	22	07	3	29.58	66	62	79	59	WNW	3	22	13	3	29.51	82	64	37	53	NNW	8	22	19	4	29.46	76	66	59	61	E	4
23	01	5	29.45	70	66	81	64	N	3	23	07	0	29.48	67	63	79	60	NW	6	23	13	7	29.43	83	65	39	55	NW	9	23	19	3	29.37	77	66	55	60	SE	3
24	01	0	29.40	70	63	68	59	NW	7	24	07	0	29.45	67	62	74	58	N	5	24	13	0	29.44	83	64	35	52	NNW	10	24	19	5	29.42	77	65	52	58	E	4
25	01	0	29.46	69	64	73	60	W	4	25	07	5	29.50	69	61	64	56	W	8	25	13	0	29.49	87	65	29	51	WNW	10	25	19	6	29.45	82	65	39	55	S	8
26	01	1	29.46	74	67	68	63	SW	7	26	07	0	29.49	75	62	50	55	W	5	26	13	2	29.47	93	69	28	35	WNW	12	26	19	0	29.44	86	68	39	58	SSW	6
27	01	0	29.45	74	67	69	64	W	5	27	07	2	29.49	74	65	62	60	C		27	13	10	29.45	94	69	28	56	WNW	11	27	19	8	29.38	86	68	41	59	S	9
28	01	0	29.40	74	67	68	63	W	5	28	07	5	29.42	73	64	63	59	W	5	28	13	0	29.38	95	68	25	33	WSW	14	28	19	0	29.31	85	68	42	59	S	7
29	01	0	29.33	76	64	52	57	SW	8	29	07	0	29.36	75	64	57	58	SSW	6	29	13	1	29.31	96	70	27	57	SW	9	29	19	0	29.27	87	69	42	61	S	8
30	01	0	29.29	75	66	63	61	WSW	4	30	07	5	29.30	76	64	51	57	W	7	30	13	5	29.29	93	72	36	62	WNW	25	30	19	4	29.26	83	72	60	68	WSW	7
31	01	1	29.31	78	72	74	69	C		31	07	0	29.37	78	71	71	68	ENE	3	31	13	4	29.35	95	75	40	66	SW	5	31	19	9	29.38	73	70	86	69	NE	6
	01	3	29.40	68	63	76	60	N	5		07	4	29.43	68	62	73	59	W	7		13	5	29.41	82	66	43	56	NW	10		19	4	29.38	77	65	55	59	S	7

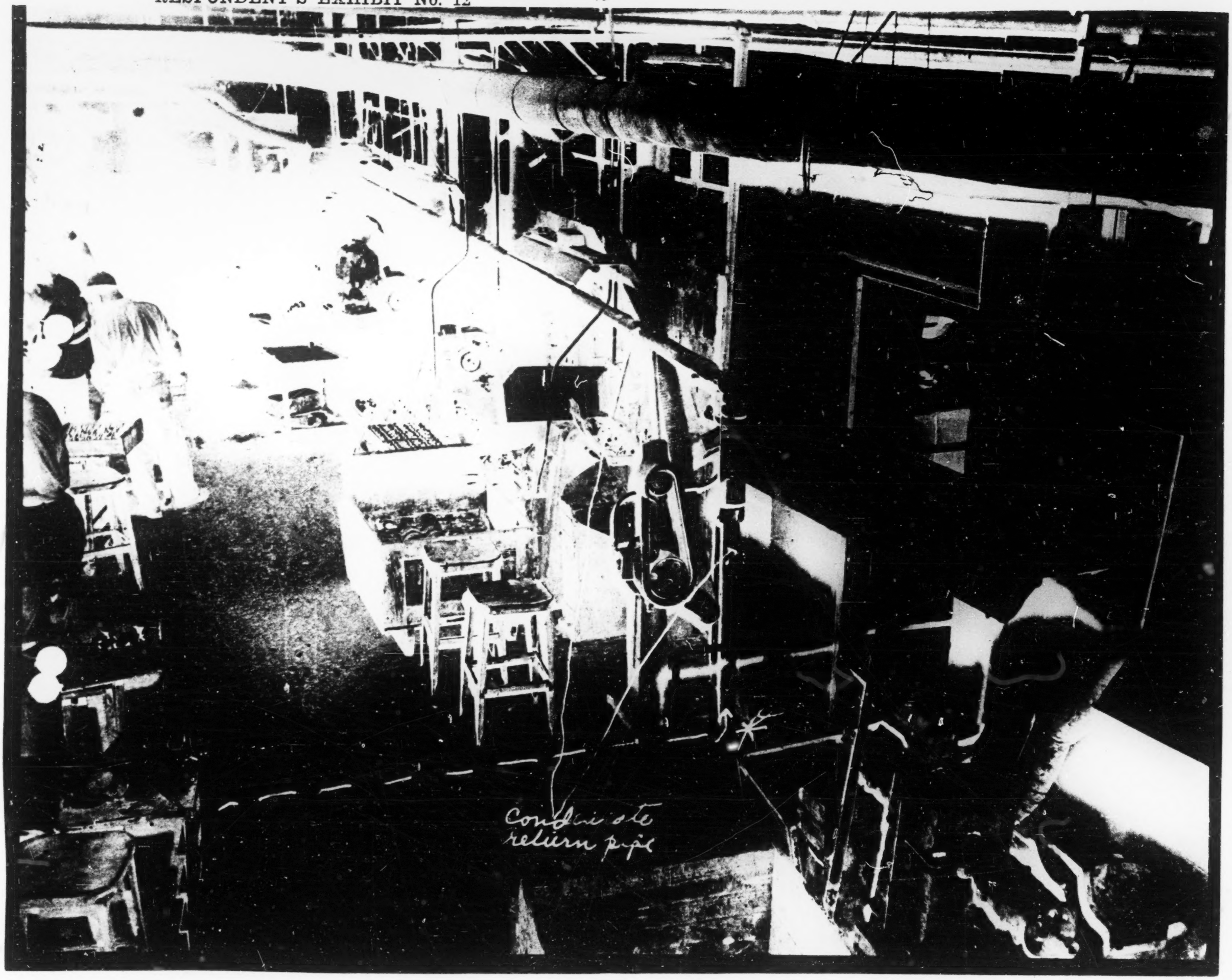
Station pressure in Table G obtained from barometer at 626 feet above mean sea level.

RESPONDENT'S EXHIBIT No. 13



RESPONDENT'S EXHIBIT No. 12

12



Testimony of Charles E. Morley

Q. It was your suggestion they reverse the wires that operate the motor, is that correct?

A. Yes.

Q. That is the motor that operates the big fan up on the roof?

A. Correct.

Q. And the reversal of the motor, of course, meant the reversal of the fan, is that correct?

A. That is correct.

Q. Did you find that improved things, when the motor was reversed?

A. Well, that would be a very moot question. In other words, a paddle type fan operates just about as efficiently one way as

it does the other. The reason that I suggested that to the maintenance department was that—as I testified—there was a fire in the switch box on the previous Friday.

The thing was repaired on Saturday and inasmuch as the only thing that had happened of an electrical nature—that that was the only thing—that is why I suggested in putting up a new switch they may have gotten their wires tangled, and asked that they try that.

Q. In other words, when this repair crew or maintenance crew came in on Saturday, August 29th, to put in a new switch box, or whatever it was, they by chance reversed the motor, isn't that correct, that operates the fan?

A. Apparently they had reversed it from the direction it had been running.

Q. That is correct.

A. There again, I think we had an independent outside contractor come in.

Q. Who was the outside contractor that did it for you?

A. I believe his name is Thome. I believe we had a man named T-h-o-m-e.

Q. So you finally concluded that perhaps changing the fan and motor to run the opposite direction in which it had been running, that might help the suction, is that correct?

A. As far as I was concerned, the suction was perfectly all right as it was. However, in an endeavor to find out if

there was anything the company could do to keep everybody happy, and the plant operating, and so forth, I suggested that.

Q. So at your suggestion the motor was reversed, and the fan operated in reverse from what it had been operating on August 31st and the day shift of September 1st?

A. I can't tell you—in other words, I have no way of knowing which way the motor was running before. I did have the motor reversed.

Q. You had it reversed, that's right.

A. I asked them to reverse it. Whether or not my reversing it put it in a condition or had the motor running the way it had previously run, or whether I, in reversing it, reversed the situation, is something I can't actually tell you.

Q. Why did it occur to you that reversing the motor might help the situation?

A. Well, very honestly I can't tell you. In other words, I knew they had been working on the electrical system, and I just simply suggested they try reversing the motor.

Q. So at any rate your maintenance men followed your suggestion and reversed the motor, and from then on everything was all right, isn't that correct?

A. I wouldn't say everything was all right, no, sir.

Q. You mean it ran worse after that?

A. I can't tell you whether the blower ran better or worse.

Testimony of Charles E. Morley

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A. Yes.

Q. That is the motor that operates the big fan up on the roof?

A. Correct.

Q. And the reversal of the motor, of course, meant the reversal of the fan, is that correct?

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A. I wouldn't say everything was all right, no, sir.

Q. You mean it ran worse after that?

A. I can't tell you whether the blower ran better or worse.

92

If you mean was everything all right, the status quo resumed and so forth, I would say no.

Q. You didn't notice any change, one way or the other, is that right?

A. I think there was very little change due to the reversal of that motor. A paddle type fan works—

Q. Well, I don't want your opinion on what a paddle fan will do, but I want you to tell me what actually was done.

A. I have already told you that.

Q. All right, and after you gave instructions to reverse the motor, and after it was reversed, you didn't disturb it any more, did you?

A. No.

Q. Now, did the afternoon buffers report for work on the regular starting time of three-thirty p.m. on Tuesday, September 1, 1953?

A. A number—you mean the ones that had walked out?

Q. Yes, the ones that had walked out, the ones that had walked out the previous afternoon.

A. I can't say whether they all returned or not. In fact, I don't think they all returned. I think Mr. Harsch is one that didn't return. I am not positive, though, again.

A number of them did come back, and some who had been absent on Monday came in to work on Tuesday. That is, they came back.

93

Q. Did you permit them to work?

A. No, I didn't permit them to work, because I had informed them the night before what our position would be if they walked out.

Q. Now, on the morning of September 30, 1951, a large number of your employees went out on strike, about

ten-thirty in the morning, is that correct?

A. I wouldn't know without referring to some record on that.

Trial Examiner: 1951?

Mr. Corenman: 1953. If I said '51 I stand corrected.

Mr. Langs: What is the date?

Mr. Corenman: September 30, 1953.

The Witness: That is correct.

Mr. Langs: If I understand this question correctly, you asked him whether or not a large number of his employees walked out on September 30, 1953 on a strike.

Mr. Corenman: That's correct.

Mr. Langs: That is the question, so go ahead and answer it.

Trial Examiner: He has already answered it. I believe he said that was correct.

Mr. Corenman: May we go off the record?

Trial Examiner: Off the record.

(Discussion off the record.)

Trial Examiner: On the record.

94

Q. (By Mr. Corenman) Now, do you know how many people walked out on strike on September 30th, 1953, in the morning?

A. In the morning, no, I don't know exactly.

Q. You say approximately a hundred?

A. I wouldn't think there would be that many.

Q. Did they all go out on strike?

A. You mean did all of them that walked out go on strike?

Q. No, did some of them remain to work?

A. Oh, yes.

Q. Now, after the—I will withdraw that.

Mr. Corenman: I will ask the reporter to identify as

General Counsel's Exhibit Number 9 a letter from the Knight Morely Corporation addressed—dated October 1, 1953—addressed to Mr. George Kelly.

(Thereupon, the document above referred to was marked General Counsel's Exhibit No. 9 for identification.)

Q. (By Mr. Corenman) Mr. Morley, I will now hand you General Counsel's Exhibit Number 9 and ask you if you recognize what that is?

A. Yes.

Q. Is that a letter, one of the number of letters that were mailed by the company on October 1, 1953, to the strikers?

A. That is correct.

Q. Now, are you able to tell us the names of all of the

95

people to whom you mailed that notice?

A. I can't tell you that offhand, no. I can get the list for you if you wish.

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96

Mr. Langs: It is agreeable if you wish it that way. I don't see the point. There is no question about the letter being sent, and there is no question about it being sent to one hundred one employees.

As to the names and the other, the exact names, I don't see the materiality of it at all in this particular proceeding.

Trial Examiner: Well, as I follow the testimony, this list, when it is submitted, is that to be compared with Appendix "B" in the amended complaint?

Mr. Corenman: That's right.

Trial Examiner: There are eighty-seven names on Appendix "B".

Mr. Corenman: Probably as Mr. Langs has indicated,

97

Appendix "B" may not be entirely accurate, and we would like to check that for inaccuracy, and if some names have been omitted we would like to include them, and if some have been included we would like to strike them out.

I will have to check further on that.

Trial Examiner: That is a matter you both can confer on. We will reserve, then, number 10 for this list of names.

Mr. Corenman: This list of names to whom the employer sent the letter identified as General Counsels' Exhibit Number 9, each one received a similar letter.

Trial Examiner: You have not offered Exhibit marked Number 9.

Mr. Corenman: We now offer into evidence General Counsel's Exhibit Number 9.

Mr. Langs: No objection.

Trial Examiner: Received in evidence.

(The document heretofore marked General Counsel's Exhibit No. 9 for identification was received in evidence.)

Q. (By Mr. Corenman) Mr. Morley, I will direct your attention to General Counsel's Exhibit Number 9, a registered envelope and letter.

Is it a fact all of these letters were sent by registered mail to each of these employees?

A. I believe that is correct.

Mr. Corenman: I will ask the reporter to identify as

98

General Counsel's Exhibit Number 11 a group policy, Number H 15,730, with the Aetna Life Insurance Company, Hartford, Connecticut, insuring employees of Knight Morley Corporation.

(Thereupon, the document above referred to was marked General Counsel's Exhibit No. 11 for identification.)

Mr. Corenman: General Counsel's Exhibit Number 11 is further identified as the group hospitalization expense policy.

I will now ask the reporter to identify as General Counsel's Exhibit Number 12 a group policy, Number 15,730, with the Aetna Life Insurance Company, identified as one-year renewable term non-participating policy.

(Thereupon, the document above referred to was marked General Counsel's Exhibit No. 12 for identification.)

Q. (By Mr. Corenman) I will now direct your attention to General Counsel's Exhibits Numbers 11 and 12, Mr. Morley, and ask you whether or not those group policies were in force and effect covering the employees of your plant in the period of September 30, 1953 to October 5, 1953?

A. They covered whatever employees subscribed to the coverage.

Q. Those two policies had been in force for several years, is that correct?

A. I believe so, yes.

Q. They are still in force and effect, isn't that correct?

A. That's correct.

Q. Now, after the strike of September 30, 1953, state whether or not you notified the Aetna Insurance Company to cancel the coverage on the people whom you regarded as strikers?

A. After what date?

Q. After they went out on strike September 30th,

state whether or not you notified the Aetna Insurance Company to cancel coverage on the employees whom you regarded as going out on strike.

A. I think that is covered in a letter from the union to the company, and the company to the union, regarding the insurance policies.

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100

Mr. Corenman: We will offer into evidence—if I haven't done so already—General Counsel's Exhibits Numbers 11 and 12.

Mr. Langs: No objection.

Trial Examiner: General Counsel's Exhibits marked 11 and 12 are received in evidence.

(The documents heretofore marked General Counsel's Exhibits Nos. 11 and 12 for identification were received in evidence.)

Trial Examiner: These appear to be the original policies.

Mr. Langs: That's right. We want those back.

Mr. Corenman: We will substitute photostatic copies.

Mr. Langs: Yes.

Trial Examiner: Will it be necessary to photostat the entire policy or stipulate on the material part?

Mr. Langs: I might make this comment on the record. I

101

think I know what Mr. Corenman is after; and so far as I am concerned, what he is trying to do, I believe, and I will let him speak for himself, is the question of whether these employees are terminated, and when they are to be considered terminated employees, if at all, so far as the insurance, is concerned, and these are now in evidence, and

therefore, I quote from them.

It provides that the termination of an employee—I am reading from Number 11—That the termination of an employee's insurance provides this: "The insurance of an employee shall automatically terminate upon termination of employment."

And then it goes on to define what that termination of employment is, and it says this: "Cessation of active work in the classes of employees eligible for insurance shall be deemed termination of employment."

Now, that appears in Exhibit 11, in the principal policy itself, and then in a rider which is attached, it refers to termination of an employee's insurance, and that is set up as: "An employee's insurance under this rider is to be effective as long as his insurance under the group policy is effective, and shall automatically terminate, and then his insurance under the group policy terminates."

A further rider, page 3 of Exhibit 11, provides for individual terminations: "Immediately upon termination of the

102

employee's insurance under the group policy."

Now, there is an exception to the continuation of the insurance, and the exception is this: "After the cessation of active work which provides for employees that are temporarily on part-time employment, or absent on account of sickness or injury."

Mr. Corenman: Why don't you read the whole section into the record?

Mr. Langs: All right, the section is this: "The insurance of an employee shall automatically terminate upon termination of employment. Cessation of active work in the classes of employees eligible for insurance shall be deemed termination of employment except that while an

employee is temporarily on part-time employment or is absent on account of sickness or injury employment shall be deemed to continue until premium payments for such employees' insurance are discontinued. At the option of the employer, the insurance of an employee who, owing to lack of work, is temporarily laid off, may be continued but not beyond the end of the policy month following the policy month in which the layoff starts."

Now, the same language appears in Exhibit 12, and this is the life insurance group policy. The other was the hospitalization group policy; and this provides under Terminations: "Insurance of any employee will automatically cease thirty-one days after termination of employment, except as hereinafter

provided. Cessation of active work by an employee shall be deemed termination of employment, except that if an employee is absent on account of sickness or injury, or is temporarily laid off, granted leave of absence, pensioned or retired, employment shall be deemed to terminate when premium payments for such employees' insurance are discontinued, but in any event, employment shall be deemed to terminate not later than two months following cessation of active work when a layoff or leave of absence exceeds a two-month period. Upon request by the employer, the company may, however, agree in writing to allow the insurance of an employee to be continued for an additional number of months during layoff or leave of absence."

That's all there is under Termination in that particular policy.

Now, I think that is all that is material in this particular case. I don't think there is anything further material in those policies.

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TRANSCRIPT OF TESTIMONY
August 12, 1954

134

NORWOOD BEIER, a witness called by and on behalf of the General Counsel, being first duly sworn, was examined and testified as follows:

Direct Examination

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135

Q. (By Mr. Corenman) Do you recall what kind of a day August 31st was with respect to the weather?

A. Yes, it was very hot.

Q. What time did you start working on August 31st?

A. 3:30.

Q. Was that the usual starting time on the afternoon shift?

A. It is.

Q. Now did you have any occasion to observe a thermometer that day?

A. I did.

Q. Where did you observe the thermometer that day and about what time?

A. At my own home before I left work it was 96 degrees in the

136

shade.

Q. And will you state whether the night you began, whether or not you began working, starting there at 3:30 p.m.?

A. Yes.

Q. Now when you started work what, if anything, was the condition of the way the blower system was operating, as far as you could determine?

A. To my knowledge it wasn't operating properly.

Q. What did you observe in that connection?

A. It didn't have the displacement of air at the hood.

Q. Tell me what first directed your attention to it.

A. Well, first when we put on our wheels as a rule you have to level them off with a rake and when you do that it forms an awful dust around, lint flying and if the blower is working properly, you don't have that happen. It goes into the machine.

Q. You speak of raking the wheel. Will you describe what you mean by raking the wheel?

A. Well, it is a little gadget that we use to hold against the wheel to level it off so that it doesn't—it is a balancing operation, more or less.

Q. Sort of to smooth off, level off the buff, the buff wheel, is that right?

A. That's correct.

Q. Now about how long did you work under this condition with the blower system operating that way?

A. Well, not too long. I went and talked to the steward.

Q. What was the steward's name?

A. Joe Muniz.

Q. Tell me what else you did that day after you noticed the blowers weren't sucking?

A. Well, at that time we kind of gathered around and more of us talked to Joe and he in turn went and talked to Harry.

Q. Who is Harry?

A. Harry Harsch, President of the Local.

Q. Then what occurred?

A. After, to my knowledge, Harry went in to see Mr. Morley.

Testimony of Norwood Beier

Q. Did you see Mr. Morley come out later on, out into the buffing room?

A. Yes, I did.

Q. What did you observe was occurring when Mr. Morley came out?

A. Well, to my knowledge, he started checking over the machines, whether there was any draft there.

Q. Did you see what he did?

A. Yes, he stood by the machine there and tried it and I noticed later on they went back to where the blower system really is and checked that to see—I seen him open the pipe. Whether it was him I could not say or someone in the plant that opened it.

Q. Now, what kind of buffing were you doing that day?

A. I was doing chrome buffing at the time.

138

Q. Now, can you tell us what you mean by chrome buffing?

A. Well, it is an operation, after it comes from the plating room—we call it as a burn. It has a white film on it and we have to remove that and get it back down to the plating.

Q. Now, what kind of compounds do you buffers use in your buffing operations?

A. Well, it is a chrome compound but as a rule the mirror arms we were working on if they were burned very bad we usually put a little Tripoli on the wheel at first to hold a chrome buffing on. It had more of a tendency to hold a chrome dope on.

Q. Now you speak of a buffing compound called Tripoli. How does this buffing compound come, this Tripoli?

A. It is a bar two by eight.

Q. Two by eight?

A. Two by two by eight.

Testimony of Norwood Beier

Q. You take this bar of Tripoli and apply it to the buffing wheel so as to saturate the wheel, this buffing wheel, is that correct?

A. A small amount, not too much, just enough to hold the other down.

Q. Does this Tripoli contain an abrasive that buffs and polishes the metal that you want to buff or polish?

A. It buffs it.

Q. Now with respect to yourself, can you state how much dirt and dust accumulated on you during the afternoon you buffed on

August 31st?

A. Approximately a quarter of an inch of abrasive and lint on my arms.

Q. What kind of clothing does an ordinary buffer wear when he is working during his buffing operations?

A. Well, just ordinary clothes. You have to wear a couple of pair of gloves.

Q. Do you wear an apron, too?

A. Yes, we wear an apron.

Q. Now I believe you stated that about a quarter of an inch of dirt and dust settled on your arms, is that correct?

A. That's correct.

Q. In about how long a time?

A. Well, that was in the neighborhood of close to an hour and a half.

Q. I will ask you whether or not—no, I will withdraw the question. I will ask you whether that volume of dirt and dust had accumulated on your arms previously when the blower was working.

A. No, it did not.

Q. Did you notice whether or not any other places in the room were covered with the dust and dirt from the

buffing operations?

A. Will you restate that question?

Q. Did you notice any other dirt and dust other than on your arms from these buffing operations?

140

A. Yes, it was all around the machines, just as well, all over on the floor.

Q. Was any of it in the air?

A. It sure was.

Q. About how much was in the air?

A. Well, it was like a little light fog floating around with all of that lint.

Q. And will you state whether or not you breathed in any of this dirt and dust?

A. Yes, you breathe it in because you could feel it in your nostrils, you were getting a dry feeling in your throat.

Q. Now, can you state how much, if any, had settled on the floor at your machine?

A. Well, roughly, an inch anyway, right around the machine.

Q. Now on previous occasions when the blower was operating in its usual manner, will you state whether or not dust accumulations formed in the air, on the floor and on your arms and face, as it did the afternoon of August 31st?

A. Not to any great extent.

Q. Now how hot was it in the buffing room in which you were working on the afternoon of August 31st?

A. About 110 degrees.

Q. Will you state whether or not you were perspiring?

A. Sure was.

Q. Now other than your observations of the volume of dust float-

141

ing around in the air and settling on the floor and on your body, did you make any test to determine whether or not the blower pipe was sucking at your buffing machine?

A. I did. I held a little of the lint that I gathered around the machine, I held in front of the hole and it wouldn't draw it off my hand.

Q. You held that in front of the blower pipe?

A. Yes.

Q. That is situated where with respect to your buffer machine?

A. Well, it is fastened, it is connected onto the back of the hood, the back of the wheel.

Q. How close did you hold your hand to this blower pipe that had the quantity of dust in it?

A. Right in front of it.

Q. I will ask you whether or not—you stated when you made this test the blower pipe did not take the dust out of your hand?

A. That's right.

Q. I will ask you whether or not you had ever made similar tests on previous occasions when the blowers were normally operating?

A. I have.

Q. What was the fact as to whether the blowers sucked the dust out of your hand on those occasions?

A. They would draw it right out of your hand.

Q. Now, getting back to the—your previous testimony where you testified after Harry Harsch went in to see Mr. Morley, Mr.

142

Morley came out and you saw him walking around with a cigar. Did I gather right that you saw him go to the cyclo-wash? I don't know whether you testified to that.

A. Yes, he did walk over to the cyclo-wash.

Q. Now what is this cyclo-wash, can you tell us what that is?

A. That's where the blower draws the air through and gathers the fragments that stay in the water, the cyclo-wash.

Q. What, if anything, was done at the cyclo-wash while Mr. Morley was in the room?

A. Well, to my knowledge they drained off some water.

Q. Did that help the situation any with respect to the efficiency of the blower system?

A. No, it did not.

Q. Now how long did you remain in the plant on the afternoon of August 31st?

A. About 5:15 when I checked out.

Q. State whether or not before you checked out you cleaned up your machine?

A. I did, I cleaned up all around my machine, took my wheels off and placed them in the box.

Q. Did you punch out your card?

A. I did.

Q. Was anything said to you by Mr. Morley or by Superintendent Hicks before you left, and if so, what?

A. Well, when we was ready to go out, Mr. Hicks—just before

we went out, Mr. Hicks talked to us there and said if we punched out we was all through.

Q. Now, did you report for work at the usual starting time the following day, Tuesday, September 1st?

A. I did with the intention, figuring the blower system would be corrected and when we returned our cards were out of the rack and Mr. Morley said we either leave peacefully or he would have us ejected from the plant. Before

we could get out of there we were ejected by the Richmond police.

Q. Now, do you recall whether or not the blower system broke down on Friday, just before Friday, August 28, 1953?

A. I do.

Q. About what time of the day was that?

A. Around our lunch period.

Q. What time is your lunch period?

A. Eight o'clock.

Q. Was it before or after your lunch period?

A. After.

Trial Examiner: Was this eight o'clock in the evening?

The Witness: Correct.

Q. (By Corenman) Now tell us what happened with respect to the blower system?

A. Well, when they started it up evidently the switch box blew out or burned out and being they couldn't repair it, we stood around and waited for about an hour and they seen they couldn't

144

get it fixed they sent us home.

Q. Who sent you home?

A. Supervision.

Q. During the hour and a half that you stood around waiting while it was fixed was any work being done by any of the buffers?

A. No, there was not.

Q. Now, do you recall whether or not the blowers broke down on Friday before that, namely Friday, August 21, 1953?

A. Yes.

Q. About what time of the day was that?

A. Well, about 8:30.

Q. What happened then? What did you do?

Testimony of Norwood Beier

A. Well, we stood around until they called in their maintenance man and we waited—we were ready to go home but then they—around ten o'clock they had it repaired and we went back to work, when the blower was working.

Q. During the time the blower was not working state whether or not the men did any work or whether they just stood around waiting for them to repair it.

A. We waited around until they had it repaired.

Q. Now, Mr. Beier, what was the reason for your leaving your place of work on the afternoon of August 31, 1953?

A. It was my belief, as well as all of the rest of the employees it was injurious to our health to breathe those particles of lint and abrasives into our lungs.

145

Q. And at that time did you have any belief as to whether or not the breathing in of the particles from the buffing operations could cause lung ailments?

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Cross-examination

155

Q. As a matter of fact, it was the general practice, cleaning it every Saturday, isn't that right?

A. Yes, sir.

Q. And the dirt and material taken from the buffing room was taken out back and put in a pile back of the plant, isn't that correct?

A. That's right.

Q. And when you cleaned you cleaned the pipes and you cleaned

156

the hoods and the box that sits around a portion of the jack and the floors and the washing system itself, isn't that right?

A. That's right.

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157

Q. In other words, buffing is normally an operation which does develop a certain amount of dirt, isn't that right?

A. Certainly.

Q. And that dirt comes from not only out of the wash but around the machines and in the hoods and on the floor and all over, and that is what is cleaned up, including that which comes out of the cyclo-wash and taken outside, isn't that right?

A. Yes.

Q. Now you have stated here on your direct examination that you were perspiring very freely or very much—I don't recall the exact words you used but you stated there was a heavy amount of

158

perspiration. That is correct, isn't it?

A. Yes.

Q. And working in a place where there is a certain amount of dirt as a part of your heavy perspiring, it is only normal and natural for a portion of that dirt to stick to your body and your clothing, isn't that right?

A. A certain percent, yes.

Q. I believe you testified that you had worked about an hour and a half and an hour and fifteen minutes or something of that kind before you left to go home?

A. I think I stated it was about 5:15 when I punched out.

Q. If you—did you stop working before that?

A. About five o'clock.

Q. That would be about an hour and a half?

A. In the neighborhood.

Q. And you stated in that time there was about an inch of lint and dirt which had dust particles which had settled on the floor in that period of time?

A. Right around my machine.

Q. Just around your machine?

A. I didn't say the complete floor, around my machine.

Q. Now the next day, the next morning the day shift went in there and worked, you know that to be a fact, don't you?

A. I wasn't there.

Q. Do you know it as a fact, or don't you?

159

A. I don't know whether they worked or not.

Q. On the basis of an inch accumulation in an hour and a half, that would make about five inches of accumulation or approximately that depth in an eight-hour period, is that about right?

A. No doubt it would if the blower wasn't working no better than it was that day.

Q. Did you ever work in that plant at any time or any other buffing department where you had five inches of dirt and lint, which you had to walk through on any floor?

A. No.

Q. That is absolutely correct. When you stated a while ago the temperature was 110 degrees, 110 degrees in the buffing room, there was no thermometer in the buffing room, was there?

A. There was.

Q. Did you have one there that day?

A. No, but there was one on the second machine.

Q. You had it there and you checked it that day particularly?

A. I looked at the thermometer, how warm it was in there.

Testimony of Norwood Beier

Q. Is it your habit of checking the thermometer at all times, that is when you leave home and when you come to work in the plant?

A. I usually check it two and three times a day.

Q. Did all of the men clean up around their machines before they left on August 31st when you walked out?

A. Yes.

Q. Everyone cleaned up so that everything was all clean and in

160

spick and span shape?

A. As far as my knowledge, they all cleaned up before they left.

Q. Now when you mentioned the Friday before August 31st, when they had this fire in the switch box, when the blower was down, by that you mean the blower was not working, the wheels were not turning, is that right?

Q. And when the machine was down on the Friday before that and you stayed around for a while and then continued and finished your work, when you say the blower was down, what you meant there was the blower wheels were not working, they were not moving, is that right?

A. Right.

Q. On August 31st the blower was working, however, as distinguished from these other days, is that correct?

A. It was, but it wasn't displacing the air.

Q. How much air should a blower displace?

A. At least enough to draw the dirt away from right where you are standing.

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163

Redirect Examination

Q. (By Mr. Corenman) Mr. Beier, I believe you testified

on the chrome polishing you put a little bit of Tripoli, and what is the other buffing compound you use for chrome polishing?

A. You call it chrome.

Q. Is that the principal polish you use for chrome polishing?

A. Yes, the Tripoli is just the base you use to make it stick better to the wheel.

Q. Do you put a little bit of Tripoli on first and then put the chrome compound on next, is that right?

A. That's right.

Q. Now can you tell us what other type of compounds they use there at Knight Morley for buffing besides the chrome—what do you call it, chrome buffing compound?

A. They have a stainless steel compound.

Q. There is a stainless steel compound. Any other compound you fellows use?

A. No.

Q. This Tripoli, what do you use the Tripoli principally for?

A. Buffing die cast.

Q. Is that the rough die cast?

164

A. Yes.

Q. After it has been polished on the polishing wheel?

A. Right.

Q. Now this polishing wheel that you polish the rough die cast with, do you know what that has on it?

A. It has a grit on it.

Q. Now you testified the temperature was 110 degrees in the buffing room on the afternoon of August 31st. I will ask you whether or not you know of any heat conducting agency in or around the buffing room, and if so, state what they are?

A. Yes, the boiler room is the adjoining room to the buffing room and where I work, the machine where I worked at there was a steam pipe or hot water pipe, whatever you call it, that run underneath where I worked. I always stood on a board. Otherwise, I couldn't stand it on my feet, to stand there any length of time. There was a piece of plywood, about 5/8ths inch plywood.

Q. Was that steam pipe or hot pipe on on August 31st?

A. It was.

Q. Do you know where that leads to, that steam pipe?

A. It goes under through where I stand and then back up outside the wall and goes to the plating department.

Q. Now I believe you testified in the buffing and polishing operation you wear gloves?

A. Correct.

Q. How many pair of gloves?

A. As a rule, two pair.

Q. And why do you wear gloves?

A. When you hold that material against the wheel it gets awfully hot.

Q. If you touch that material that is being buffed, that metal that is being buffed, will you stated whether or not it would burn your skin?

A. It sure will. It will form a water blister.

Q. How about the motors that operate the buffing jacks, do you know whether or not they generate heat?

A. Every motor when it runs, it always generates heat.

Q. Will you state whether or not you have ever noticed any heat coming from the motor?

A. Well, you could put your hand on it. It would be awfully hot.

Q. Now, Mr. Langs questioned you about a big mound of dirt and dust that is piled in back of the Company's

plant, which you describe is about 75 foot high, or am I mistaken? How high did you think it was?

A. Between eighteen and twenty feet high.

Q. Eighteen and twenty feet high and about how long?

A. Oh, an area close to a hundred feet long.

Q. Now, this is the dirt and lint and dust that over a period of years has been constantly taken out to this dump and dumped out there, is that correct?

166

A. That's right.

Q. Now, Mr. Langs asked you about whether or not you ever came in on a Saturday to clean out the blower systems, I believe you stated you did?

A. I did.

Q. Can you tell us how much dirt and sediment you get out of the cyclo-wash? That is that big tank of water you clean on week-ends, on Saturday?

A. Well, it depended on most generally four or five wheelbarrows full.

Q. I presume you would roll these wheelbarrows out to this big dump that's in the back yard, is that right?

A. Right.

Q. Can you state whether or not when you cleaned on Saturdays, cleaned out the blower pipes, whether or not, or rather, how much dirt and lint and dust you got out of the blower pipes?

A. Very little.

Q. Now do you know whether or not at the end of each shift the sediment is scraped off the top of the cyclo-wash tank?

A. It is supposed to be taken off.

Q. Did you ever do that yourself?

Mr. Langs: Just a moment, I ask the answer to the last question be stricken. The supposition is not important.

Trial Examiner: Strike it.

Q. (By Mr. Corenman) I will ask you whether or not you at the

167

end of any shift was asked to clean the sludge off the cyclo-wash tank?

A. I was.

Q. About how much sediment did you get off the top of the cyclo-wash tank?

A. In the course of one shift you would get two wheelbarrows.

Mr. Corenman: No further questions.

Recross-examination

Q. (By Mr. Langs) Mr. Beier, buffing rooms are not known for being the cleanest place in the world to work, isn't that true?

A. I think that's true.

Q. And the heat which is generated by holding a piece of metal against a turning wheel, of course, is thrown off into the air, is that right?

A. You are holding it in your hands, getting the heat into your hands, then you put it in the box.

Q. I am not questioning that at all. I am simply asking you for your observation?

A. It is generated into the air.

Q. In other words, you have motors, you have heat from your buffing wheels, and you have got the dust and lint, and all of that is part of the general buffing room operation, isn't that right?

A. I think it is.

Q. Now I believe that around the outer edge of this buffing room—

168

incidentally, let's ask this question. About how large is the buffing room?

A. I don't know the exact size of it.

Q. Well, let's have your approximate idea.

A. Oh, I imagine, it is about 30 foot wide, and about 80 foot long.

Q. And isn't it true there are windows all the way around that on two sides?

A. Yes.

Q. And those are windows that open?

A. That open?

Q. That open?

A. Yes.

Q. They are windows that open?

A. Yes.

Q. And when the weather is warm those windows are open, isn't that true?

A. As a rule.

Q. And in the wintertime you generally keep the windows closed or if it gets too warm you open them up, is that right?

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172

LESTER PORRETT, a witness called by and on behalf of the General Counsel, being first duly sworn, was examined and testified as follows:

Direct Examination

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Q. (By Mr. Corenman) Were you one of the afternoon buffers who left your work on the afternoon of August 31st, 1953?

A. Yes.

Q. Did you start your work on that day, August 31st, at the usual starting time, 3:30 p.m.?

A. Yes, sir.

173

Q. I will ask you at the time you went to work what kind of a day it was outside?

A. It was very hot and humid.

Q. Did you have an occasion that day to observe a thermometer?

A. Yes, I have a thermometer at home and on very hot days and very cold days I usually check the temperature. It was 98 degrees when I left the house.

Q. About what time was it when you checked the thermometer?

A. Oh, it was shortly before I went to work.

Q. Now can you state as to whether or not it was a dry day or humid day?

A. It was very humid. Hardly a breath of air stirring.

Q. Now when you got to work I presume you started to work doing your buffing?

A. Yes.

Q. How long did you work that day?

A. Well, worked, oh, for say about probably an hour, almost.

Q. Now did you notice anything unusual about the way the blower system was operating that afternoon?

A. Yes, I noticed shortly after I started to work that the dirt seemed to come up in my face from the wheel instead of going as it usually did, out—usually the blower takes the dirt from the wheel, but the dirt seemed to fly back in my face and after a little while I noticed the air seemed to be filling with dust and it became very dirty in there.

174

Q. Did you do anything about it?

A. Yes, first I thought perhaps my blower pipe was plugged. I stopped my machine and checked to see if the pipe was plugged and it seemed apparently clear and I tested to see if the air was going onto the floor, held my hand by the pipe, and there didn't seem to be much air. I took a little of the lint and dust from the floor and held up there within a few inches of the blower pipe and it didn't take it off my hand.

Q. When the blower system was operating normally did you ever make similar tests with the lint in your hand?

A. Yes.

Q. Did it take the lint on those other occasions?

A. It whips the lint right out of your hand rapidly.

Q. So what else did you do then after that?

A. I reported the condition to the union steward, Joe Muniz, and he said that others in the buffing room had already reported the condition.

Q. Did you endeavor to keep on working after you made the report to Joe Muniz?

A. Yes, I came back to work. I tried to work.

Q. What did you observe about the dust as you continued working?

A. The dust became thicker. It settled on my body and arms. It was very irritating to my throat and nose. I seemed to be breathing dust in and had to clear my throat and spit dust out. It was very disagreeable.

175

Q. You say you spit out?

A. Yes.

Q. Did you notice anything in the saliva when you spit out?

A. Yes, the dust and dirt.

Q. Now when the blower operates normally does this condition exist of your being covered with dirt and dust?

A. No.

Q. Do you know how hot it was in the buffing room on the afternoon of August 31st?

A. I didn't check the thermometer in the buffing room but I judge it was hotter than it was outside, quite a bit.

Q. Are you able to give a judgment as to what the temperature was in the room?

A. I would estimate somewhere around 110 degrees.

Q. Now I will ask you whether or not you saw Mr. Morley come into the plant that afternoon of August 31st?

A. Yes, he came in with Harry Harsch in the buffing room.

Q. Did you observe what Mr. Morley did?

A. Yes, he came to some of the machines and held his lighted cigar by the machine, by the blower pipe, and noticed that the smoke—it didn't suck the smoke up readily. The smoke just drifted to the opening in the blower pipe.

Q. Did you observe anything else with respect to what Mr. Morley was doing?

A. Yes.

176

Q. Or people along with him?

A. He had the main pipe in the blower system opened and checked the draft in the main pipe.

Q. How did he do that, did you notice what he did about checking the draft in the main pipe?

A. I believe he held his hand—in fact, I saw him hold his hand up there and try to put cigar smoke there also.

Q. Did you talk to Mr. Morley yourself that afternoon?

A. No, I did not.

Q. Did you hear any of the other employees talk to him

that afternoon?

A. Well, he and Harry Harsch were talking and I heard just before he left, I heard another employee John Willing, talk to him.

Q. What was the conversation between John Willing and Mr. Morley?

A. John Willing suggested that Mr. Morley have the wiring and the switch checked.

Q. Did Mr. Morley make any reply to it?

A. Mr. Morley claimed that the blower system had been repaired and he refused to check the wiring.

Q. Now, did you observe what any of the other buffers were doing?

A. You mean at the time?

Q. Generally that afternoon. I will withdraw the question. Did you have any talk with any of the other buffers about the

177

conditions in the room?

A. Well, yes, with Joe Muniz, and with some of the others, yes.

Q. And I will ask you if Superintendent Hicks came out into the plant that afternoon and say anything to you fellows in connection with the blowers?

A. Yes, he did.

Q. Will you tell us what was said?

A. He said—this was after Mr. Morley went back to his office, he said that Mr. Morley told him to tell us if we did not work that our cards would be pulled. In other words, we would be fired.

Mr. Langs: Just a minute, I ask his statement which he made, in other words we may be fired, that remark be stricken, as not responsive. He answered the question before that and his interpretation is unimportant.

Trial Examiner: Strike it.

Q. (By Mr. Corenman) What was the understanding of the expression your card would be pulled?

Mr. Langs: Just a moment, I object to that, his understandings or ideas and thoughts are unimportant. That is a decision for this Examiner to make from the evidence in this case. We have an objection to this type of testimony.

Mr. Corenman: I don't want to make an issue out of it. It is obvious to everybody they made the decision the cards would be pulled. Mr. Langs doesn't like the answer.

178

Trial Examiner: The objection is sustained.

Q. (By Mr. Corenman) Now did you try to come back to work the next day?

A. Yes.

Q. And what happened?

A. Well, I came in and my card was gone from the rack and there was officer from the Richmond Police Department there. When my card was gone, I left because I had hoped that I could go back to work but found that I couldn't.

Q. I will ask you whether or not you believed on the afternoon of August 31st that the conditions of the dust in the air was in any way injurious to your health?

Mr. Langs: Just a moment. I object again to this line of questioning. I have a general objection to all of this testimony but this gets down to more specific objection. He can testify to facts. He is not a medical man and therefore any statement or any question like which has just been asked is very improper in this case.

Trial Examiner: The objection is overruled.

Q. (By Mr. Corenman) You may answer.

A. I believe that it was injurious to my health, the situation as it existed.

Testimony of Lester Porrett

Q. Did you have any belief as to what respects it was injurious to your health?

Mr. Langs: I object again to that question. There is no

179

testimony here as to this man's medical ability as to the effect of anything upon him in a medical way.

Trial Examiner: Overruled.

Mr. Corenman: I think this man's beliefs are in issue in this case, his motives are in issue.

Trial Examiner: Proceed. I have overruled the objection.

The Witness: I believe that the conditions as they existed would produce lung trouble and nose and throat trouble.

Q. (By Mr. Corenman) Now what was the reason you left work on the afternoon of August 31, 1953?

A. I left my work to protect my health.

Q. And before leaving was any discussion had amongst the men as to whether or not they should leave?

A. Yes, there was some discussion as to what we thought about it.

Q. And state whether or not it was the decision of the entire group that they should leave under those conditions?

A. It was the decision of the entire group that it was advisable to leave to protect our health.

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Cross-examination

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180

Q. (By Mr. Langs) During the time you worked as a buffer, Mr. Porrett, did you at any time ever help or assist in cleaning the buffing room?

A. Yes.

Testimony of Lester Porrett

Q. You know during that period of time there has been a tremendous amount of dirt that has been taken from the buffing room?

A. Yes.

Q. And it is piled up in the back of the Knight Morley plant?

A. Yes.

Q. You also know that working in the buffing room is not the cleanest type of operation, isn't that true?

A. There are cleaner operations, yes.

Q. And dirt and lint is a common by-product of work in a buffing room, isn't that right?

A. Yes.

Q. Your answer is yes?

181

A. Yes.

Q. Was there any discussion, Mr. Porrett, about the employees going home after the two-hour period in the same manner as the morning shift?

A. I don't just get your meaning there.

Q. Well, you know that most of the morning shift except a few of the men who remained to clean the buffing room went home after two hours work on the morning shift of August 31st. You know that to be a fact?

A. Yes.

Q. Was there any discussion about the men on the afternoon shift also going home after the two-hour period?

A. There was discussion among the men about it.

Q. Were you perspiring very much on that day?

A. Yes.

Q. When you perspire does the dirt stick to you a little more than when you don't perspire?

A. Naturally.

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Testimony of Lester Porrett

184

Q. (By Mr. Langs) Mr. Porrett, I show you General Counsel's Exhibit 8, which is a photostatic copy of a notice dated March 1, 1951 appearing on the bulletin board near the time clock of the Knight Morley Corporation. Do you recognize that notice?

A. Yes.

Q. You saw that notice before?

A. Yes, sir.

185

Q. You saw it before August 31, 1953?

A. Yes.

Q. You saw it from March 1, 1951 or thereabouts many times, up until August 31, 1953?

A. Quite a few times.

Q. This notice states, Mr. Porrett: "Regardless of whether an employee is excused or not during the regular working hours, the employee must obtain a written pass." Did you ask Mr. Hicks for a written pass?

A. No, I did not. • • •

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186

PHILLIP MARSHALL WHITTAKER, a witness called by and on behalf of the General Counsel, being first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Corenman) • • •

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187

Q. Are you one of the buffers who left your place of work on the afternoon of August 31, 1953?

Testimony of Phillip Marshall Whittaker

A. Yes, sir.

Q. What kind of a day was Monday, August 31st, with respect to the weather?

A. Hot?

Q. Do you have any judgment as to what the temperature was that day outside?

A. I would say it was in the nineties.

Q. And about what time did you punch out on the afternoon of Monday, August 31st?

A. Approximately 5:15.

Q. And do you have a judgment as to about what the temperature was in the buffing room on that afternoon?

A. Oh, I would say it was in the neighborhood of 110 degrees.

Q. Now had there been any difficulty with the blowers before August 31st, to your knowledge?

A. On Friday before.

Q. That would be Friday, August 28th. What happened on that day

with respect to the blowers as far as you know?

A. Well, we come back from lunch and there are switches right alongside of my machine and Foreman Floyd went to throw the switch and sparks flew and the blowers did not operate.

Q. So what did you fellows do then? Did you work without the blowers or what happened?

A. Floyd checked them to see about fuses and he said there was nothing he could do about it, so we were sent home.

Q. Was there some difficulty with the blowers on Friday preceding that day, namely Friday, August 21st, do you recall?

A. No, I do not.

Testimony of Phillip Marshall Whittaker

Q. Now when you came to work on Monday afternoon, August 31st, will you state whether or not you observed anything about the blowers, unusual?

A. After I started to work I noticed they weren't sucking the foreign matter and lint and stuff away from the wheels like they ordinarily do.

Q. What was happening to the dirt and dust created by the buffing operation?

A. On the automatics your hood is up over your wheel and a certain portion of it would be thrown out and part of it would stick in the upper hood and every once in a while it would get too heavy and let loose and drop down on the wheel and it would throw it all over you.

Q. Now did you do anything about it?

A. I stopped the machine to see if the blower pipes were plugged up but they weren't plugged up. There was no suction there.

Q. Did you see what the other fellows were doing about the same time?

A. Well, I turned around and everybody else seemed to be confused and wondered why I guess theirs wasn't working, but I never went and investigated.

Q. Did you see what was done with respect to attempting to investigate what was wrong and who conducted the investigation as far as you could determine?

A. I seen the steward, his name was Joe, open up a water pipe and drain some water.

Q. And after he opened up this water pipe to drain the water, did that help the blower system any?

A. Not that I know of.

Q. Did you see anything else that was done that afternoon?

A. There was an inspection plate taken off I think one

of the main blower leads and Mr. Morley blew cigar smoke up through it and a portion of it floated into the opening and a portion of it went right on by.

Q. Did you observe whether or not the other men were covered with dirt and dust from the buffing operations?

A. Yes.

Q. Will you tell us what you observed in respect to the other men?

A. They were pretty well covered with it, their arms and under ordinary conditions they wouldn't look like they did at that time.

Q. Now, did you see Mr. Hicks in the buffing shop that afternoon?

A. I did.

Q. Did he have anything to say?

A. He did.

Q. Will you tell us what Mr. Hicks said?

A. Mr. Hicks walked over towards the center of the plant by the side door and the buffers more or less gathered around and Mr. Hicks said he had just come from Mr. Morley's office and his orders were that any man that refused to work and walked out of the plant was through.

Q. Now I will ask you whether or not at the time you left the plant on the afternoon of August 31, 1953, if you entertained any belief as to whether or not working with the inefficient blower was injurious to your health?

Mr. Langs: The same objection as heretofore noted, please.

Trial Examiner: Overruled.

The Witness: I think it would be.

Q. (By Mr. Corenman) I will ask you what your reason was for leaving the premises on the afternoon of August 31, 1953.

Testimony of Phillip Marshall Whittaker

A. Due to the inefficient blower system it wouldn't be healthful to work in the area.

191

Q. Now did you attempt to return to work the following day, Tuesday, September 1st?

A. I did.

Q. Were you permitted to work?

A. No, sir.

Q. Now in the buffing operations will you state whether or not the buffers and polishers wear gloves?

A. They do.

Q. How many pairs of gloves do they wear?

A. I don't know what they wear. I wear two pair.

Q. Why do you wear these two pair of gloves?

A. Due to the heat of the metal coming off the machine, to keep it from burning my hands.

Trial Examiner: What kind of gloves are they, Mr. Whittaker?

The Witness: They are a canvas gloves.

Trial Examiner: Would you describe them a little more, as to their size, how far they come up on your wrist?

The Witness: They are more or less a light canvas glove and they come up past the wrist.

Trial Examiner: Have a gauntlet?

The Witness: Yes.

Q. (By Mr. Corenman) Do you know whether or not there is any heat generated by the movement of the machinery and the buffing operations?

A. Any motor that runs generates its own heat.

192

Q. How many motors, if you know, are there at the automatic where you were working?

A. Four.

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Testimony of Phillip Marshall Whittaker

Cross-examination

Q. (By Mr. Langs) Did you ask Mr. Hicks for a pass when you left the premise on August 31st?

A. No, sir.

Q. You saw this notice, General Counsel's Exhibit Number 8, a photostatic copy of a notice that was on the bulletin board?

A. I did.

Q. You didn't have any discussion with Mr. Hicks personally yourself then at all?

A. No.

Q. Did you tell Mr. Hicks that the reason you were leaving was because this condition was injurious to your health?

A. No.

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194

Q. Now, you have stated that when you went back the following day on September 1st, the afternoon shift, you expected to go back to work. As a matter of fact, at that time you had no know-

195

ledge as to whether the operation of this blower had been changed or modified, added to or anything else been done to it, did you?

A. I was hoping it would be fixed, and ready to operate.

So far as you were concerned you wanted to go back to work?

A. I did.

Q. You didn't have any knowledge as to whether it was fixed or not?

A. No.

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Testimony of Phillip Marshall Whittaker

Redirect Examination

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196

Q. (By Mr. Corenman) I will ask you whether or not there was any discomfort in working on the afternoon of August 31st?

A. Yes, there was.

Q. Will you describe what that was?

A. There was more confusion, and due to the fact that there was lint and dust in the air, breathing it in, it made it uncomfortable to work.

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RUSSELL SIMONS, a witness called by and on behalf of the General Counsel, being first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Corenman) • • •

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197

Q. Did you report to work on the afternoon of August 31, 1953?

A. Yes.

Q. What kind of weather were we having that day when you reported for work?

A. Well, it was a hot, humidity.

Q. Now, after you started work, did you notice anything unusual about the way the blower system was operating?

A. When I started to rake the wheels, the room started to get kind of foggy with the dust and lint that was flying.

198

Q. What was happening to you with respect to the dirt and dust?

A. I was polishing at that time. That day I was on a different wheel, and mine didn't throw quite so much dirt as their wheels did.

Q. Will you state whether or not your polishing wheel threw more dirt than ordinarily?

A. No, mine just threw kind of a dust, like. I was on an emery wheel, like; a built-up wheel.

Q. This emery build-up wheel you were polishing arms?

A. Shells.

Q. Shells?

A. Shells.

Q. Now, did you do anything about this fact when you noticed there was more dust than usual?

A. Well, I knew the blowers were plugged somewheres, or something happened. The dust didn't vacate away, and I reached down on the floor and got some fuzz and put it up to the blower and it didn't go out of my hand at all, so then I knew the blowers wasn't working.

Q. Had you ever made such a test when the blowers were working?

A. Different times.

Q. When the blowers were working good, what would happen to the dust in your hand, when you made that test?

A. It wouldn't be there. It would take it right up the chimney, up the blower.

199

Q. Did you notice anything with respect to whether or not any of the dirt and dust was accumulating on the floor of the buffing room on August 31st?

A. When the fellows raked the wheels it was kind of

blowed around by their machines, stayed right there, didn't go away at all.

Q. Did you notice about how high it accumulated about the machines?

A. It was covering the floor, around the machine.

Q. Did you see whether or not whether any of the dirt and dust was getting on the men?

A. Their shoulders, and that was all lint and dust on them.

Q. Now, what about yourself? Will you describe about how much dust and dirt and lint was getting on you?

A. My wheel didn't throw the lint like theirs did. Mine was more dust. Back of your arms was getting so it was covered with it.

Q. And did you have any difficulty working or feel any discomfort in working under these conditions?

A. The only thing was we was sweating bad and every time you would go to wipe the sweat off you was all full of that dirt.

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200

Q. Now did you notice what was done that day? That is what the other men were doing when you noticed the blower wasn't working, did you notice what they were doing?

A. I didn't pay much attention really to what they were doing, but a lot of them had their machine shut off and looking to see if their blowers was plugged.

Q. Now I believe you testified you left with the other men on August 31st?

A. With the others, yes.

Q. You left shortly after five o'clock, isn't that about right?

A. Yes, sir.

Q. Did you punch out when you left?

A. Yes.

Q. Did you clean up around your machine when you left?

Trial Examiner: Off the record.

(Discussion off the record.)

Trial Examiner: Come to order.

Q. (By Mr. Corenman) Mr. Simons, do you wear gloves in the buffing?

A. Yes.

Q. State whether or not all the other buffers wear gloves?

A. Yes.

Q. How many gloves do they wear as a rule?

A. It all depends on how many they want to wear, I guess.

Q. How many do you wear?

A. I only wear one pair, with fingers in them.

Q. You wear extra fingers on top of the gloves?

A. Inside them.

Q. Inside the gloves?

A. Yes.

Q. Does his metal get pretty hot when you were buffing it?

A. Yes.

Q. Hot enough to burn your hand?

A. Yes.

Q. Now, did you try to return to work the following day, September 1st?

A. I did.

Q. Were you permitted to return to work?

A. We come in to work but there were no cards in the rack so we didn't work.

Testimony of Russell Simons

Q. Now I will ask you why you left your place of work on the afternoon of August 31, 1953.

A. Well, it was disagreeable to work in, the blower wasn't working, dust was getting so thick, it was hot, and put them both together, it was disagreeable to work.

Q. Did you believe at that time whether or not your health was in danger, endangered in working under such conditions?

A. I knew it wasn't very good for your health.

Q. Did you have any ideas as to in what respect it wasn't good

202

for your health?

A. Just breathing the dirt in your lungs, that's all. Hard on your lungs.

Q. Now was there any difficulty with the blower on occasions prior to August 31, 1953?

A. Well, there was a couple times that some of the wiring burned out, I guess, or something, but we fixed that right away.

Q. Do you remember the first occasion, was that Friday, August 21st?

A. I don't recollect just what day it was, but anyway the wiring burned out and we was off for about an hour before they got it fixed and then we went back to work again.

Q. And when was the second time, was that about a week later?

A. That was about a week or so later when they burned the fuse box out. That happened right after we had our lunch and then we went home because they couldn't fix it.

Q. Now, this fuse box that didn't operate the machinery. It just operated the blower, is that right?

A. Just operated the blower, and when the foreman throwed it in, it blew out.

Q. In other words, when this fuse box blew out, that didn't stop the running of the buffing wheel. It just stopped the running of the motor that propels the blower system, is that right?

A. That's right.

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204

Q. Did you ask Mr. Hicks for a pass pursuant to this notice of March 1st?

A. No, sir.

Q. You seen that notice?

A. Yes.

Q. You knew it was there?

A. Yes.

Q. It had been there for several years?

A. Yes.

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205

Q. When you first start in the afternoon, when you first go to work one of the first things which all buffers do is to rake their wheel, isn't that true, to put it in shape? A new wheel you rake it immediately?

A. Yes, to get it smooth.

Q. Is that correct?

A. Right.

Q. You stated one of the things that caused dust later on, after you had been there for a while, was the raking of your wheel, when you raked it at first it apparently didn't bother you?

A. I wasn't buffing. I was polishing on a polishing wheel.

Q. And also you rake on that?

A. Yes.

Q. You don't do any raking on that?

A. No.

Q. You testified you did rake?

A. I said the other guys raked. I didn't rake.

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206

Q. Now you know about the dirt that was taken from the buffing operation, and piled out at the rear of the Knight Morley Corporation building?

A. Yes.

Q. Over a period of time it's grown to be quite a big pile of dirt out there?

A. Yes.

Q. As a matter of fact, you also know from your experience that a buffing and polishing operation is not the cleanest type of work in the world, is that right?

207

A. That's right.

Q. In fact, it is rated as a fairly unclean, or work in which you are more likely to acquire a little dirt, is that right?

A. Yes, naturally.

Q. Now, when you left on August 31st, did you go to the wash rack and wash, clean up?

A. Yes.

Q. You did that. Was that customary for the men to always do that, when they leave?

A. Yes.

Q. As a matter of fact, one of the chores which they do, when they leave buffing at any time, is to go and wash up, is that right?

A. That's right.

Q. And there is always a substantial amount of dirt

which you wash off in order to get yourself clean, and presentable to leave the factory?

A. Sure.

Q. That is a normal, every-day habit, is that right?

A. Sure.

Q. And on those days when it is hot and you get sweaty, you have more dirt on you than you do on days when it is not so hot, and it is cool, right?

A. Yes.

Q. Now you stated that you did not talk personally to Mr.

Hicks, who is the afternoon superintendent?

A. No.

Q. That's correct?

A. Yes.

Q. Therefore you didn't tell him that the reason you were leaving was because of any unhealthful condition or any condition which you felt was hazardous to your health, you didn't tell him that?

A. No.

Q. When you went back to work the following day you had no knowledge that the machine had been altered, amended, repaired or anything done to it? You didn't know what had been done?

A. No.

Q. You wanted to go back to work?

A. Go back to work.

Q. As a matter of fact, the next day I believe it cooled off a little bit?

A. I just don't remember that.

Q. Well, it was not too hot and maybe not too cold, either; it was possibly normal summer day?

A. It was a summer day all right.

Q. And you wanted to go back to work?

A. Yes.

Q. When did you first talk to anyone about this idea of being unhealthful or injurious to your health?

209

A. I didn't talk to anybody.

Q What?

A. I didn't talk to anybody.

Q. Did anybody talk to you about it?

A. No.

Q. Did you talk to anybody about this case before today?

A. No, sir.

Q. Did you ever see this man, Mr. Corenman, before today?

A. I have seen him, yes.

Q. Did you ever talk to him about this case?

A. Well, not—no.

Q. You never talked to him about this case?

A. No.

Q. Mr. Corehman never talked to you about the case?

A. No.

Q. He didn't ask you any questions about what you knew about it?

A. No.

Q. How did you happen to be in his presence then?

A. Well, I just met him the other night, and that's all.

Q. Where did you meet him?

A. At Mr. Kelly's house.

Q. Did Mr. Livingston talk to you about this idea of the work being hazardous or unhealthful?

A. No, he did not.

Q. Did Mr. Young talk to you about it?

210

A. No.

Q. Was this discussion in Mr. Kelly's home the other night when Mr. Corenman was there?

A. He didn't tell me it was unhealthful or anything.

Q. Was it discussed at that meeting?

A. Well, that I just can't remember whether it was or not.

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211

Mr. Corenman: I will call John Curzydlo, a witness called by and on behalf of the General Counsel, being first duly sworn, was examined and testified as follows:

Trial Examiner: What is your name, please?

The Witness: Curzydlo, John Curzydlo.

Mr. Corenman: It is spell C-u-r-z-y-d-l-o, Curzydlo.

Trial Examiner: C-u-r-z-y—

Mr. Corenman: —z-y-d-l-o Curzydlo.

Direct Examination

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212

Q. (By Mr. Corenman) When did you start working for Knight Morley Corporation?

A. April 17, 1957—'47.

Q. Have you been employed as a buffer all of the time?

A. Yes, I have.

Q. Did you work on the afternoon shift?

A. Yes.

Q. Did you come to work on Monday, August 31, 1953?

A. No, I didn't.

Q. Why didn't you come to work on Monday, August 31, 1953?

A. The reason I didn't come in to work is because I worked around home and when I come home for dinner I was too tired to even eat, it was so warm and when I ate my dinner I went out to my little shanty that I had out in back of my kitchen there, and the thermometer said it was 96 in the shade. That was on the north side of the building, and I said, "Gosh, I am not going in to work. It is too hot to work."

Q. So did you report for work on the following day, September 1, 1952?

A. Yes, I did.

Q. At the usual time about 3:30?

A. Yes.

Q. Did you have anything to say to Herbert Hebel, the day super-

intendent at that time or did he say anything to you?

A. When I come in the door I punched my card but Herbert Hebel said to me, "What was it, a boy or girl?" And I neither said, "Neither one, it was too warm to work; too hot to work."

Q. So what did he say, if anything?

A. He said, "There will be just you and another fellow working on the afternoon shift in the buffing room."

Q. Did he say anything what happened to the other fellows?

A. He didn't say.

Q. So what did you do then?

A. I stood around and waited until the day shift was ready to punch out. When the whistle blew I was near the buffing room and the day shift walked by me and I went into the buffing room by my machine and I saw Mr. Morley and the maintenance guys. I didn't notice who they were, but anyway they were right there by the switch box and

then I heard Mr. Morley say, "Just take it easy and we will have the blowers fixed in a minute." So when I walked from my machine to the crib room to pick up my buffing wheel, when I come back and laid my wheels down, the blower was working already.

Q. Did you do your work as a buffer as usual on that afternoon, September 1, 1953?

A. Yes, I went on and was coloring shells at that time.

Q. Did you notice whether or not the blower was working normally, as usual?

214

A. Same as usual.

Redirect Examination

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215

Q. (By Mr. Corenman) This buffing compound, is that the stuff that flies off the wheel on the automatic blower?

A. On the automatic blower?

Q. Yes.

A. After it gets up into the pipe, a certain amount of it gets in there, then it drops down on the automatic and naturally when the wheel is buffing around it will throw it around.

Q. Now, when the wheel spins around it throws some of that buffing compound up against the blower, does it not?

A. Yes, it does.

Mr. Corenman: That's all.

Trial Examiner: Thank you, sir.

(Witness excused.)

Mr. Langs: I would like to have the record show I am furnishing Mr. Livingston with a copy of the Amended Answer.

Mr. Livingston: Thank you.

Mr. Corenman: I will call Clarence Kammer.

Testimony of Clarence Kammer

CLARENCE KAMMER, a witness called by and on behalf of the General Counsel, being first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Corenman) Will you give your full name, Mr. Kammer?

A. Clarence Kammer.

Trial Examiner: Will you spell your last name?

The Witness: K-a-m-m-e-r.

216

Q. (By Mr. Corenman) What is your home address?

A. 5684 Springborn Road.

Q. Were you formerly an employee of the Knight-Morley Corporation?

A. Yes.

Mr. Langs: Will the witness speak a little louder, please?

Q. (By Mr. Corenman) Please speak a little louder.

A. Yes.

Q. How long were you employed there?

A. About five and a half years.

Q. What shift did you work on?

A. Day shift.

Q. What was your job on the day shift?

A. Wheel man.

Q. Will you tell us briefly what the job of a wheel man is?

A. Well, it is setting up polish wheels for the polishers and buffers.

Q. Can you describe a polishing wheel to us, and describe how you would set it up or make it?

A. Well, it is sections glued together, buffs glued together, and then they are shaped with a rake and then they

get a coat of glue and put in the oven for this glue to bake and then they are brought back out of the oven which you add another coat of glue and certain grit. They have different forms of grit all the way from 80 up to 120. It depends on the job they are doing.

217

Q. When you say 80 to 120, you mean the size of the grit, is that it?

A. Yes.

Q. Do you know what they call that grit?

A. I call it emery dust. Some of it is made out of clay. Some of it is made out of mining emery, extra fine.

Q. About how big is the polishing wheel after you get through setting it up?

A. It all depends on the job. Some of them are two Sections. We have some only one section. All of the way from a quarter of an inch up to three and a half inches.

Q. A quarter of an inch up to three and a half inches big?

A. Yes.

Q. How big is the diameter of the polishing wheel?

A. Eighteen-inch approximately.

Mr. Langs: I can't hear what the witness is saying and I would like to have him talk up so we can hear.

The Witness: Eighteen inches.

Q. (By Mr. Corenman) About eighteen inches?

A. Yes.

Q. Now, will you describe how you make a buffing wheel?

Trial Examiner: Excuse me, will it help if the witness sits in another position, one of those chairs down there, will it help you any, Mr. Langs?

Mr. Langs: I will stand up here.

218

Q. (By Mr. Corenman) Now will you describe to us how you make a buffing wheel?

A. A buffing wheel is just a section of cloth which is sewed together in sections and you put whatever you want for the job, two or three sections together, and balance them, and put them on the jack, and that is it.

Q. About how big are the buffing wheels?

A. That again depends on what you are going to buff. You can use two sections. You can use four. You can use six. It depends on the job.

Q. How big in diameter are the buffing wheels?

A. They run all the way to eighteen inches, sixteen inches. It depends on the size of the job.

Q. Now, in your wheel room, is that where you also store the buffing compounds?

A. Yes.

Q. Can you tell us what buffing compounds you keep in the wheel room?

A. Well, we have the chrome dope and stainless steel dope, Woodison which is for nickel, copper and the Tripoli.

Q. Now this Woodison is used for what?

A. Use that more for nickel and copper.

Q. For buffing copper and nickel?

A. Yes, sir.

Q. And the chrome buff is for buffing chrome?

219

A. Yes.

Q. Stainless steel for buffing stainless steel?

A. Right.

Q. And the Tripoli is used for what?

A. For the raw buffing, when they come off the die cast.

Q. Buffing the die cast metal?

A. That's right.

Testimony of Clarence Kammer

Q. Now, the polishing wheels, what are they used for?

A. They are to take the seams off the castings when they come from the die cast.

Q. Now did you go to work on the morning of August 31, 1953?

A. Yes, I did.

Q. And how ~~long~~ did you work that morning?

A. I don't just recall. I believe it was until ten o'clock or something like that.

Q. Do you recall that's the morning after you worked two hours you were all sent home?

A. That's right.

Q. Now,—

Mr. Langs: What was the date on that?

Mr. Corenman: Monday morning, August 31st.

Q. (By Mr. Corenman) Did you take any of these wheels that you were making, these buffing wheels, take them out into the buffing room to rake them that morning, do you recall?

A. I didn't have too many wheels to do, and I was ordered by the

foreman, Mr. Vandelberg that I could face some, so these are wheels that I make up, and they have to be shaped before I can make a polishing wheel out of them and I did one and I looked like a picked goose. I had about an inch of lint all over me and it was flying, and the boys got disgusted, so Johnny come along and I told him—

Q. You say Johnny, is that Johnny Vandelberg?

A. Yes.

Q. He is your foreman?

A. Yes.

Q. What did Johnny say to you?

A. I told him the blower wasn't working too well, there

was something wrong, and it was impossible to do that, and he said do some of them anyway, so I got about half a dozen.

Q. What did you say was happening to the lint when you were raking these buffing wheels?

A. It was flying all over the place. There wasn't enough suction in the blower to take it. It was hanging all over me. I was covered with it, so Johnny says to do a few more, and then he says forget about it.

Q. Now did you notice anything in connection with the blower systems on the other buffing wheels in the shop that morning?

A. When I come back—as a rule, I always set my glue dish up, which is about eight inches by 18 inches long, I had that set up on the bench and when I come back there was about a quarter of an

inch of lint in my glue dish. I couldn't see no glue and I had to skim the top of the glue dish off and then I dare say it was about fifteen or twenty feet from where I was working.

Q. So do you recall then that morning the men were sent home?

A. That's right.

Q. After working about two hours?

A. That's right.

Q. Now how were the blowers working on that Monday morning, August 31st, in comparison with the way the blowers normally work?

A. Well, I didn't work on any that morning.

Q. I mean just other than one instance where you raked a few wheels?

A. Yes, sir.

Q. And it flew all over?

A. Yes, it isn't my job. The only thing I can tell is

the blowers aren't working because the lint comes into my room and floats all over the place.

Q. When the blowers are working does the lint come into your room?

A. No. I can tell a difference then. I can tell by my glue dish when the blowers are not working proper, when that happens my glue gets a bunch of lint in it so I don't need to go check the blowers. I have a good way of checking.

Q. Now did you return to work on Tuesday morning, September 1st?

A. Yes.

222

Q. What, if anyting, did you notice about the blower system Tuesday morning?

A. They still wasn't up to standard.

Q. Now getting back to August 31st, the day you only worked two hours. Can you tell us what kind of a day it was, concerning the weather?

A. It was warm.

Q. Do you know what temperature it was that day?

A. When we went home and got gas, all I know the gas man told us the thermometer read--

Mr. Langs: Just a moment. I object to what someone else told him.

Trial Examiner: Sustained.

The Witness: The gas man told us—

Trial Examiner: Never mind what the gas man told you.

Q. (By Mr. Corenman) Did you form any idea in your mind what the temperature was that day?

A. My thermometer read 96, after I got home.

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Testimony of Clarence Kammer

225

Cross-examination

Q. (By Mr. Langs) • • •

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228

Q. What is the size of the fans that stand in the back of the buffing room, what size blade is that?

A. I dare say eighteen inch.

Q. If I told you it was a 24-inch blade, would you say I was wrong?

A. Possibly it is, I wouldn't say.

Q. It is a huge fan that stands on a special pedestal, is that right?

A. Yes.

Q. And that fan is set in the buffing room to circulate the air?

A. Right.

Q. And it does circulate the air, doesn't it?

A. Yes, sir.

Q. That fan travels at a high speed?

A. Yes.

Q. In fact, it makes quite a bit of noise?

A. Yes.

Q. And it whirls this 24-inch blade?

A. Yes.

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229

Q. (By Mr. Langs) There is a large entrance door that goes into the buffing room from the main office?

A. Yes.

Q. Then on the other side, the outside of the building where the windows are there is also a door which is a little more than a standard door that you can get a wheelbarrow

through, is that right?

A. Yes.

Q. And there is glass all the way around on two sides of the room, the buffing room?

A. Right.

Q. Now on the 31st of August, this large 24-inch fan was going because of the hot whether, is that right?

A. Right.

Q. As a matter of fact, the buffing room was not the hottest room in that plant that day, is that right?

A. Well, I would say it was hot in there.

Q. My question is it was not the hottest room in that plant that day, is that right?

A. I would say it was the hottest.

Q. It was the hottest room?

A. Yes, I would say it was.

Q. Now, what would the temperature be back in the die casting

230

room?

A. I have no idea. I am not a die caster. I don't work back there.

Q. As a matter of fact, they melt metal back there, isn't that right?

A. Yes.

Q. And in order to melt metal you have to have several hundred degrees of temperature, isn't that right?

A. Yes.

Q. So in the die casting room you would have the hottest place in the plant, isn't that right?

A. They also have fans in the die casting room.

Q. I didn't ask you that question. Will you answer my question?

A. What was it?

Q. It was the hottest room in the plant, the die casting room. On a hot day it is the hottest room in the plant, isn't that right?

A. I wouldn't agree with you. I would say the buffing room is just as hot because you have a motor on every jack.

Q. If I told you it takes 825 degrees of temperature Fahrenheit, temperature, to melt the metal, you must maintain it at that level, you wouldn't say I was wrong on that, would you?

A. No, because I have melted it before.

Q. You have melted that metal and it takes a very high degree?

A. Yes.

231

Q. And that is the temperature which is back there in that room, is that right?

A. Yes.

Q. There are fans in different parts of the plant, is that right?

A. That's right.

Q. Back in the die cast room you would have 825 degrees or better temperature out of each one of the pots attached to each of the die casting machines, isn't that right?

A. That's right.

Q. And you have got 825 degrees of temperature or better out of the melting furnace, isn't that right?

A. That's right.

Q. So then it is only normal and natural that that room where all of that heat is would be much hotter than any other portion of the building, isn't that correct?

A. I still wouldn't say so because they have a fan. There is just a little corner in there with three m- -ues operating and they have a big electric fan that is pushing

right up against you.

Q. As a matter of fact, the temperature over the plating operation would be hotter than in the buffing room, isn't that right?

A. Again you have windows on that side where you have ventilation.

Q. Aren't there windows on the same side in the buffing room as

232

there is in the plating department?

A. Yes.

Q. Exactly the same size?

A. Yes, but you are working over a jack with a motor on it plus your die cast metal is hot, and you are getting a fair amount of heat off the buffing.

Q. Well, would you say that the water and chemicals maintained at 160 degrees of temperature would not give off any heat?

A. A certain amount of heat, but there is a lot more there to help them. You have a fan right above.

Q. In other words, in the buffing room the motor and the jack would give you more heat than in the heating department with 160 degree water would give you more heat than 825 degrees of temperature in the die cast department, is that right?

A. It all depends on the set-up, Mr. Langs. It depends on your set-up. You have ventilation and have fans or you can have red hot metal and right alongside of it you can have a fan and stay cool, be working right alongside of it.

Q. Now you testified that the grit which was used in the making of these wheels was 80 to 120?

A. Right.

Q. As a matter of fact, it is not 80 to 120 but it is 180 to 220, isn't that right?

A. No, we have some 80. We have some 80 and we had some as much as 60, and we had 180 to 200 I will admit.

233

Q. The normal abrasive grit which is used?

A. Is 220.

Q. 180 to 220?

A. Yes.

Q. So what you said before does not fit into the normal operation?

A. We also have grit 60 and 80.

Trial Eaminer: May I inquire what these numbers refer to?

Q. (By Mr. Langs) What do these numbers refer to?

A. That is the grit that is put on the polishing wheel.

Q. It actually represents the size of the grit?

A. Yes.

Q. The lower the number the coarser the grit?

A. Yes.

Q. The higher the number the finer the grit, is that right?

A. Right.

Q. Now when you are doing a job that calls for coloring chrome, you use a very fine rouge in order not to mark the finished chrome, isn't that right?

A. That's right, practically a satin finish, so it won't scratch.

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236

Redirect Examination

Q. (By Mr. Corenman) * * *

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238

Q. Now you stated on cross that as far as you knew

the buffing room is just as hot as the die cast room, is that correct?

A. It all depends on how the set-up is. If you have the proper ventilation—

Q. I see. Now what was the ventilation you refer to that existed in the die cast room that would relieve the situation there?

A. They have an electric fan there and they have I think only three machines. In fact they had two fans for a while.

Q. Two fans?

A. Yes.

Q. Spaced how close together?

A. So they would get a certain amount of ventilation. That helps them. It circulates the air.

Q. Now getting back to the wheel room I believe you stated something about baking the wheels in an oven. Do you have an oven

in your wheel room?

A. That's right, and every time you open the door you have a certain amount of heat comes out of that door.

Q. Is that wheel room located in the buffing room?

A. Right.

Q. Is it separated from the buffing room by any kind of a partition?

A. Just a wire fence.

Q. Now I believe you stated that there is a fan in the wheel room, is that right?

A. Right.

Q. Is that just a floor fan?

A. Yes.

Q. Is that the only floor fan in the buffing room?

A. Right.

Testimony of Clarence Kammer

Q. And are there any other objects or machines that generate heat in the buffing room besides this bake oven you are referring to in the wheel room?

A. You have the boiler room and a few pipes that come through that lead to my oven, to heat that. That would throw off heat and one of the jacks has a motor on, plus each one of the automatics, plus the big iron horse, with three or four big motors on it. All told I dare say there are eighteen motors that are throwing off a certain amount of heat in that buffing room.

Q. Is there any heat generated in a buffing operation, that is

240

holding the metal to the buffing wheels?

A. Absolutely, you get plenty of heat off those castings when you are buffing them. They are hot. They get so hot you can't hold them.

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244

CHARLES WISSWELL, a witness called by and on behalf of the General Counsel, being first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Corenman) * * *

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246

Q. Did you go to work on Monday, August 31, 1953? Let me put it this way.

A. Yes.

Q. Do you remember the day the afternoon buffers were fired?

A. Yes.

Testimony of Charles Wisswell

Q. You worked on the day shift that day, didn't you?

A. Yes.

Q. Did you go to work that day?

A. That's right.

Q. How long did you work that day?

A. I believe we worked to 10:30 in the morning.

Q. And at that time were all of the buffers sent home except a few who were kept to clean the blowers?

A. That's right. No, may I take that back, please? I believe I worked to 9:00.

Q. To nine o'clock?

A. Nine in the morning, I believe I did.

Q. Did you notice anything unusual about the way the blowers

247

were working that Monday morning, August 31st?

A. Yes, they wasn't working in the proper way, they weren't drawing the dust at that time.

Q. And do you know whether or not you or any of the other employees said anything to John Vandelberg, your foreman?

A. I believe we have, someone told him about it.

Q. Do you know whether or not Mr. Vandelberg went in to see Mr. Morley about it?

A. That I could not answer. I don't know if he did or not.

Q. Now did you come back to work the following morning, Tuesday, September 1, 1953?

A. That's right.

Q. Did you work the full eight-hour shift that day?

A. Yes, we did.

Q. Did you notice anything about the way the blowers were operating on September 1st?

A. No, they were not working the same way.

Testimony of Charles Wisswell

Q. What was occurring that indicated to you that they were not working? What did you observe and see?

A. You mean the condition of the working?

Q. Yes.

A. Well, I couldn't stand it. I was too short, all of that dust and stuff would fly in my face, and that's why I could not work.

Q. Does that normally occur when the blowers are working, that

the dust flies in your face?

A. Not normally. If it wasn't working right, the dust fly in my face.

Q. When the blowers were working normally, did that occur?

A. That cured it. It blows away, draws it out.

Q. It would pull it away?

A. Draws it out.

Q. Now you stated that the dirt and dust was flying in your face. Will you state whether or not you breathed any of it in?

A. I have quite a lot of dirt and stuff in my nose. Sometimes I have to spit it out, a gob of it.

Q. Now at the end of each work day, do you ordinarily clean up, around your machine?

A. Yes, sir.

Q. Is that customary for all of the buffers to clean up around their machine at the end of each day?

A. That's right.

Q. Now did you clean up around your machine on Tuesday, September 1, 1953?

A. Yes, I did.

Q. Can you state whether or not you cleaned up any more dirt than usual around your machine that day?

Testimony of Charles Wisswell

A. Yes, I believe there is about five times as much, about five times as much.

Q. About how thick, if you know, was the dirt around the

249

machines towards quitting time on Tuesday, September 1, 1953?

A. Well, I couldn't say except about five times as normal as what we sweep up.

Q. Now towards the end of the shift on Tuesday, September 1, 1953, did you see two maintenance employees, one called Dutch and the other Mike Victor?

A. Yes.

Q. Did you see them towards the end of the shift?

A. Yes, I did. I believe I was the last person on the day shift, coming out of the buffing room, to the car in the parking lot, and I saw Mike Victor and Dutch—I forget his last name, how to pronounce. They were changing wires, putting wires around the box, I believe, when I left, and I don't know what happened after that.

Q. They were changing wires where?

A. On the switch box.

Q. What switch box are you talking about?

A. That blower.

Q. The switch box for the blower?

A. Yes.

Q. In what room, in the buffing room?

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Cross-examination

Q. (By Mr. Langs) Mr. Wisswell, you state you have been

250

employed there in the buffing room since about February, 1948?

A. That's right.

Q. You are familiar with the pile of dirt which has been taken out of the buffing room over a period of time which is out back of the Knight Morley Corporation plant?

A. Yes.

Q. And it has been described as about 100 feet long by 75 feet wide and 18 to 20 feet high. Is that about right?

A. That's right.

Q. Now in working in the buffing room, there is a certain amount of dirt and lint and other items which comes off, flies around, and you get dirty working in there, is that right?

A. That's right.

Q. And as a matter of fact, around the base of a machine in normal operations and within the hood and within the so-called pan, there is a substantial amount of dirt which accumulates there, is that right?

A. That's right.

Q. Now you stated here that because of your height—how high are you?

A. Five foot two.

Q. Five foot two. Because of your height you had trouble with this wheel not taking away the dirt properly?

A. That's right.

Q. And thereby interfered with your ability to work?

A. That's right.

Q. Now the wheels are about? Will you stand up and indicate about how high the wheel comes to you?

A. The wheel comes to about to here.

Q. The top of the wheel or bottom?

A. The top of the wheel.

Trial Examiner: The witness stands with his right arm flexed in front of his chest and indicates about to his

shoulder, shoulder-high, a little below shoulder-high.

Q. (By Mr. Langs) The top of the wheel is below shoulder-high?

A. Yes.

Q. When you buff you buff on the bottom of the wheel?

A. Right about here.

Trial Examiner: The witness indicate the umbilical region.

Q. (By Mr. Langs) On August 28th which would be on the Friday before, you worked on the day shift there, right?

A. Pardon?

Q. August 28, 1953 we have determined is a Friday and August 31, 1953 we have determined is the Monday and it was on the Monday afternoon shift when they walked out. Now, on the 28th of August, which would be a Friday you worked that day?

A. That's right.

Q. On that day you were able to work, as you have stated in a normal way, right?

A. That's right.

252

Q. In other words, the operation was normal?

A. Yes.

Q. According to your idea?

A. Yes.

Q. And on Monday the operation was not normal, and was not normal on Tuesday, which would be September 1st, I believe you stated that?

A. I believe so.

Q. As a result of that you have indicated here this was drawing dirt into your face, and it interferred with your operations?

A. Right.

Q. Now, the employees in the buffing room, some of

them work on piece work rate, and some of them work on day rate?

A. That's right.

Q. Do you know whether or not you worked on piece work rate any time on Friday the 28th?

A. I do not remember that date.

Q. Do you know whether or not you worked at any time on the 31st of August on piece work for any period of time?

A. I believe I do remember.

Trial Examiner: You do or do not remember?

The Witness: I think I do remember I worked on that day.

Q. (By Mr. Langs) You worked on piece work to some extent on that day, on Monday, the 31st of August, the day they walked out in the afternoon?

253

A. I do not remember. No, I don't think I did.

Q. Now did you work on piece work on September 1st, that would be on a Tuesday, Tuesday morning, during that shift? Did you work any portion of that shift on piece work?

A. At the time I can't remember whether I was on day rate or piece work at that time.

Q. In any event, your ability to work according to what you have testified was reduced on the date of September 1st as compared to what it was before this change took place, is that right?

A. That's right.

Q. Now, if I told you that on August 28th, during your shift that you averaged a piece work rate of $2.34 would you say that I was wrong on that?

A. I couldn't remember, no.

Q. In other words, you think I am probably right on

that?

A. Maybe. Maybe not. I wouldn't know.

Q. The fact that I am looking at certain records which might indicate it has been checked, would you say the chances are pretty good that is reasonable, that it might be right that you averaged $2.34 that day on August 28th?

A. If the record show, yes, I would.

Q. Now, Mr. Wisswell, on September 1st, during the day when you said it was throwing dirt in your face and interfering with your operation, if I told you that during that day on your piece

work rate that you averaged $3.03 per hour, would you say I was wrong?

A. Wrong, I don't believe I did make that.

Q. You don't think you made it that day?

A. I don't think I ever made that.

Q. How much do you think you might have made that day averaged on your piece work rate?

A. It is impossible for me to remember about that date, but I do not believe that I made that.

Q. If the record show that is what you made on September 1st, you wouldn't dispute the record, would you, and got the check and cashed it? You would have to admit that was right, wouldn't you?

A. If I did make that, I would make a decent living, but I don't remember making that.

Q. In other words, if I informed you that you did a better job and you produced more on September 1st than you did on August 28th that would be contrary to what you have testified here. Would you say I was wrong?

A. I wouldn't.

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Testimony of Alonzo J. Garlick

255

ALONZO J. GARLICK, a witness called by and on behalf of the General Counsel, being first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Corenman) • • •

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256

Q. Now do you recall the occasion where the afternoon buffers walked off on August 31, 1953? You weren't there but do you remember the occasion?

A. Yes, I remember the occasion.

Q. You worked on the day shift then, that's correct?

A. Yes.

Q. Did the day shift start work as usual on August 31st?

A. They started at seven o'clock in the morning, the same as always and they worked until 9:30, two and a half hours.

Q. Now did you notice anything unusual about the way the blowers were operating on the morning of August 31st?

A. The blowers wasn't working, in no condition much at all. I mean they were working but not to speak of. Most of the time they are cleaned on Saturday but this Saturday it wasn't cleaned,

257

so everybody laid it to being dirty pipes. The dirt was laying in the pipes. So they sent everybody home except four men to clean up the buffing room and the blower.

Q. Were you one of the men who were retained?

A. Yes, sir.

Q. Who else besides you was retained to clean up the

blower system?

A. Roman Redlin and I believe there was the steward.

Q. You don't recall the steward's name?

A. I just don't recall whether it was—that was when we changed stewards in there.

Q. All right, so you three fellows stayed on that morning?

A. There was four of us but I don't recall just which one it was, whether it was Eddy Baumgarten or Herman Gunst. There was four of us that stayed there.

Q. How did you go about cleaning the blower system that morning, what did you do?

A. John Vandelberg said Morley wanted all of the pipes taken down. We taken all the pipes down and cleaned the water and went up there and scraped it down and cleaned it up. At the time we was doing it there wasn't too much dirt in the blower pipe to cause that much dirt floating around.

Q. At any rate on the morning of August 31st you four fellows cleaned the blower system out thoroughly, is that right?

A. Yes, we did.

258

Q. And that involved taking all of the sludge out of the cyclo-wash tank?

A. That's right.

Q. Cleaning out all of the blower pipes?

A. That's right, cleaning the whole buffing room.

Q. Now on the morning of August 31st, when you fellows were kept cleaning the blowers will you state whether or not you took up the question either with Mr. Vandelberg or Herb Hebel, the day superintendent?

A. We was discussing when was taking the pipes down that we had two machines over next to the wall, the

last two next to the wall that when the blower backed up at all them was the first two machines that really backed up on the dirt, and when we took the pipes down there wasn't too much dirt in there and Johnny Vandelberg and I believe Herb Hebel came in there at that time and we discussed that there wasn't too much dirt in the pipes.

Q. Now, did you come to work on the following day, Tuesday, September 1st?

A. Yes, I did.

Q. And did you notice anything about the blowers that day as to whether they were working or not?

A. They wasn't working to speak of, no. They was working bu. nothing to speak of. They won't take up too much dirt. They will take up a little bit but not enough.

Q. Now what did you observe on the morning of September 1st that

259

directed your attention to the fact that the blowers were not working?

A. Joe Muniz met me in the driveway when I come in. It was about a quarter to seven I believe was the time on it, and Joe told me that the blower system wasn't working and they had all went home. It was hot and the blower wasn't working so they couldn't stand it and so they went home and Morley pulled all of their time cards. So I said, well, we will see what it is like when we get in there and start it up. So we went in and it wasn't—when we started working it wasn't working. I and George Kelly went to Charlie.

Q. That is Charlie Morley?

A. Charlie Morley, and asked him about a meeting, if we could get a meeting on the seventeen men and the blower.

Q. You say 17 men; there was 19 men?

A. The 19 men, the afternoon shift anyhow.

Q. Yes?

A. And Mr. Morley said, "Well, the blower is working all right," and he said the 17 men, "I will have to check on it." So we went back and we checked on the blower system and we took some of this fuzz and stuff, the lint and stuff that was raked off the wheels laying there by the hood and put it by the blower and it wouldn't take it in.

Q. Normally when the blower is working would it take it?

A. It would take it in unless you get away back on the other

260

end. It wouldn't take it up as quick as it would up in the front. So we went back and talked to him then about the meeting, so we were getting started and we asked for a meeting and he said he would try and get ahold of some legal advice on it, on the 17 men, and we scheduled a meeting for ten o'clock and when ten o'clock come around it was postponed.

Q. Who postponed it?

A. Mr. Morley postponed it. I don't remember whether it was Mr. Morley that told us or whether Mr. Hebel told us. It was postponed to eleven o'clock.

Q. Was any reason given why Mr. Morley wanted a postponement from ten to eleven in the morning?

A. He couldn't get ahold of his legal--

Q. His legal counsel?

A. Legal counsel.

Q. Okay.

A. Mr. Langs was on vacation at that time and he didn't say who he was consulting and he said he had to get ahold of somebody. So when eleven o'clock came around it

was postponed again. He said he still hadn't got ahold of anybody, so it was postponed until one o'clock. So one o'clock we finally did have the meeting.

So we went in the meeting.

Q. Who was present at the meeting?

A. Bob Seifert, George Kelly and myself.

261

Q. Now, Bob Seifert, George Kelly and yourself were all committeemen of the Union?

A. Yes, sir.

Q. Who was present for the Company?

A. Mr. Morley, Mr. Bernia and Johnny Holmes.

Q. Do you know who Mr. Bernia is, what he does with the Company.

A. He works at the office. He is head of the office.

Q. Do you know what Mr. Holmes does?

A. He takes care of all of the timing and stuff, the book work.

Q. What transpired at this meeting the committee had with Mr. Morley then in his office at 1:00 p.m., did you say?

A. About one o'clock.

Q. What transpired there?

Trial Examiner: This would be September 1, 1953?

Q. (By Mr. Corenman) This would be on September 1st?

A. Yes, sir. It was discussed about the blower and we had quite a row, running back and forth about the blower, and Mr. Morley still said it was working all right and we said it wasn't, and it finally come up, we asked if we could get a health inspector in there to check it, and well, Mr. Morley didn't go against it, but he said he would put an air indicator on it. So that is about the way it went there and before we left we was talking about the 17 men and he said that the fellow he got ahold of, whoever it was we

don't know, but anyhow his legal advice on it was he was

262

right the way it was and he would stand fast on it and he said he would check with an air indicator on the blower.

Q. Do you know whether he checked with an air indicator on the blower?

A. I don't believe there was.

Q. Did he call the State Labor Department or State Health Department?

A. No. The blower was fixed that night. It was fixed after we went home.

Q. Now on that day, Tuesday, September 1st, did you make any efforts to try and have the blower repaired?

A. Yes, we did. I talked to maintenance. I talked to Charlie Morley about it and talked to maintenance about it, talked to Herb about it and talked to Johnny Vandelberg about it. Every time we talked to anybody else they would refer us back to Charlie, Mr. Morley.

Q. Now do you recall this conference you had at Mr. Morley's office on Tuesday at 1:00 p.m., whether or not any suggestions were made by the Committee as to what might be wrong with the blower?

A. Well, it was discussed if it was wired up backwards or not, but he said it couldn't be wired up backwards, there was only one way it could run. He said even if it was wired up backwards it wouldn't make any difference on the fan. He said it was one of these fans it didn't make any difference which way it goes.

263

Trial Examiner: Who said that?

The Witness: Mr. Morley did.

Q. (By Mr. Corenman) Did Mr. Morley take any position on the 19 buffers as to why he wouldn't take them back?

A. Well, he said they left their job without permission and therefore they were all through.

Q. Now, do you recall the day of the strike on September 30, 1953, do you recall that occasion, do you not?

A. Yes.

Q. Do you recall that morning whether you had any conversation with Mr. Morley when the strike began?

A. When the strike began?

Q. Yes.

A. Yes, we did. We all started out. Quite a few of us punched out. I would say 95 percent of them punched out. More than that I guess. The whole bunch was out, on the way out and he stopped them, stopped some of these women and started talking to them.

Q. What did he say to them?

A. Well, he said that—I don't remember all what he said but anyhow he started in, and they was talking back and forth, and he said that he was the creator, he was the guy that hired and fired around there. Nobody else had anything to say about it. He told us when anybody walked out the door they were all through. He said they were walking out of a job.

Q. Do you know whether or not Mr. Morley—I will withdraw

264

that. Do you know whether or not some of the people did not walk out then on the strike?

A. Yes, there were some of them that didn't walk out. Them was about—oh, maybe 29 of them that didn't walk out, and they was already punched out. Quite a few of them was punched out already at the time when they talked them back into staying and they said they was punched out and he said, well, they would fix that up.

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266

Q. (By Mr. Corenman) Did any of the other people have anything to say to you that morning concerning the blowers?

A. Yes, they did. They were all hollering about it. They said if we didn't get out maintenance and get it fixed they were all going to go home. So when we had the meeting, we were supposed to have it at ten o'clock, and that was all right, and after that at eleven o'clock, when he postponed it from ten

267

o'clock to eleven o'clock they still hollered, and then when it is postponed to one o'clock the guys said if we didn't have the meeting at one o'clock that they was going to go home, the whole entire buffing room.

Q. And however, the men on the day shift of September 1st worked the entire shift, that's correct, is it not?

A. Yes, all but one. One didn't stay.

Q. Who was that?

A. Herbert Fox.

Q. Do you know what happened to him?

A. When the meetings was kept being postponed, he said he just couldn't take any more of it. He said, "I am all done." So he took off.

Q. Do you know whether he was discharged or considered a quit by the Company?

A. I imagine the company — I don't know, but I imagine—

Trial Examiner: If you don't know, just say so. We can't take your testimony if you don't know.

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Cross-examination

Q. (By Mr. Langs) Mr. Garlick, going back to the first

part of your testimony you stated that you remained in along with three other men to clean the blowers on the morning of August 31st?

A. Yes, I did.

268

Q. And the blowers had not been cleaned on Saturday before?

A. They wasn't.

Q. In other words, they hadn't been cleaned during that week at all?

A. That week at all, that's right.

Q. Now if I told you there was only three of you that stayed in instead of four, would you say I was wrong, to clean the blowers?

A. I almost believe there was four of us.

Q. In other words, if I told you that, do you think I would be wrong, is that right?

A. I still believe there was four of us.

Q. All right. Now, in cleaning these pipe you stated that there was very little dirt in the pipes?

A. That's right, in the pipes.

Q. You have cleaned these pipes before?

A. Yes, I have.

Q. And how did the amount of the dirt in the pipes compare on this particular occasion with the time you cleaned them before?

A. Not too much. There wasn't as much dirt in them this time as there had been before.

Q. There wasn't as much dirt this time as there had been before. In other words, that would indicate in your thinking that the blowers were not pulling the dirt up, is that right?

269

A. That's right. If the blower was working like it had

always worked there is screws in some of those pipes that the dirt hangs on, and then that starts backing the dirt up.

Q. Now, this blower had been working Monday until Friday night about eight o'clock the week before in a normal way, is that right?

A. Well, I guess so. It was working all right on the Friday I guess when I left.

Q. Well, the testimony here, according to what these witnesses have testified to is that it stopped working Friday around lunch time of the afternoon shift, around eight o'clock, when the fuse box blew out or caught fire or some way had stopped?

A. Yes.

Q. You heard that testimony?

A. They had a new switch box put on.

Q. You heard that testimony? You heard that testimony, didn't you?

A. No, I didn't hear that.

Q. Do you know that is a fact that the blower went down at that time?

A. Yes, they put a new switch on.

Q. So that actually that blower had worked in its normal capacity all week with the exception of about four hours, three and a half to four hours, is that right?

A. I imagine so, yes.

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275

Q. (By Mr. Langs) Now, Mr. Garlick, did you work any piece work on August 28, 1953?

A. I don't remember.

Q. Did you work any piece work on September 1, 1953?

A. I don't remember.

Q. If I told you you did some piece work on August 28th and September 1, '53, would you say I was wrong?

A. I wouldn't know.

Q. Would you say I was wrong?

A. I couldn't say. I don't know.

Q. If I told you you worked piece work a portion of the day on August 28th, and you had an average piece work rate of $2.77 per hour, would you say I was wrong?

A. I couldn't say.

Q. And on September 1st would you say I was wrong if I informed you that you had worked a portion of the day on piece work, and that you averaged $3.46 per hour on that day for the piece work that you performed?

A. I wouldn't know.

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279

Redirect Examination

Q. (By Mr. Corenman) Mr. Garlick, you testified to this big pile of debris back of the Knight Morley Plant, and that is the dirt and dust that has accumulated, that you clean out of the plant, is that correct?

A. Yes, it is.

Q. Now does that comprise the dirt and dust that is cleaned out each day when the cyclo-wash is skimmed off?

A. Well, it is skimmed off at the end of every shift.

Q. At the end of every shift does each man clean out a box under his machine?

A. We have a box, small box, the same size as your hood.

Q. That box is located right under the wheel, is that correct?

A. Right on the bottom, right on the floor.

Q. Am I correct when I state that a lot of the dirt and debris from the buffing operation falls directly into the box?

A. Yes, it does.

Q. Under the machine?

A. Quite a bit of it.

Q. The balance of it goes where?

A. Up the pipe.

Q. Up the blower pipe and then settles in the cyclo-wash, is that correct?

A. That's correct.

Q. Occasionally some of it will stick to the sides of the pipe of the blower system?

280

A. Yes, it does stick. There are a lot of screws in some of them pipes and they hang down.

Q. Some of the screws will catch it?

A. Yes.

Q. Of course the stronger the suction the more of it will go into the cyclo-wash, is that correct?

A. Yes, sir.

Q. So the morning you cleaned you found more in the cyclo-wash than you did in the pipes, is that right?

A. That's right.

Q. About how much of this dirt and debris and sludge do you get out of the cyclo-wash normally each week if you are one of the men that stayed at the end of the week and cleaned it out?

A. I just don't remember. I think there is about four or six wheelbarrows. I don't remember or recall which it is.

Q. Now at any time have you discussed with Mr. Morley the question of the grievance that you had on the blowers not working on September 1st, and about his discharge of the buffers, did he request you at that time to put it in writing?

A. No, he didn't.

Q. Did he refuse to talk to you about it because you

hadn't put it in writing?

A. No, he didn't.

Q. Did he in fact talk to you about it?

A. Yes, he did talk to us.

281

Q. Do you recall when was the first time the committee was requested to put the grievance about the 19 buffers being discharged in writing?

A. I don't recall just exactly the date, but it was after Mr. Langs came back from his vacation which must have been around the 20th anyhow of September.

Q. Was it Mr. Langs who for the first time requested you to put it in writing?

A. Yes, he did, he was the first one.

Q. After his request did the Union in fact put the grievance in writing?

A. On the 17 men on the afternoon shift, or 19 men.

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282

Recross-examination

Q. (By Mr. Langs) Mr. Garlick, you stated that some of this dirt would fall into this box you say is on the floor underneath the jack?

A. A certain amount of it falls in it, yes.

Q. Isn't it true there is also some dirt on the floor in normal conditions around there?

A. Some.

Q. And in the process of cleaning up, that is a part of the program of cleaning the floor as well as the hoods and pipes and the wash, and so forth?

A. Every day?

Q. Oh, no, when you clean up generally.

A. On weekends?

Q. On weekends, yes.

A. The whole place is cleaned.

Q. Then during the week each man cleans up around his own machines, he sweeps the floor and cleans up before he goes home, is that right?

A. Yes, around his own machine, yes.

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283

HARRY HARSCH, a witness called by and on behalf of the General Counsel, being first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Corenman) Were you formerly employed by the Knight Morley Corporation?

A. Yes, sir.

Q. When did you start working for them?

A. March 7, 1949.

Q. You worked for them during all of that time as a buffer and polisher, is that right?

A. Yes, sir.

Q. Were you one of the 19 buffers who left your place of work on the afternoon of August 31, 1953?

A. I was.

Q. Do you hold any office with the Local 1125, UAW CIO?

A. I am the President of the Local.

Q. How long have you occupied that position?

284

A. About three years.

Q. Now giving your attention to the afternoon of August 31, 1953, did you go to work that day?

A. Yes, sir.

Q. What kind of a day was it with respect to the weather?

A. It was a very hot day.

Q. Now when you started work that afternoon, did you notice any unusual condition with the buffer, rather with the blowers?

A. Yes, sir.

Q. What did you observe about it?

A. I noticed all of the buffers were covered with dirt and the floor was covered with it, that is after we worked after three-quarters of an hour, I mean.

Q. When you say the buffers you mean the men?

A. I mean the men working in the department.

Q. Did you observe anything about what was happening to yourself while you were Buffing?

A. I did. I was buffing chrome, using what they call a chrome stick. Naturally I am burned pretty brown and my arms were snow white, as white as any one of your shirts, and I also noticed that the lint in the air was at times just like a fog, like a good dense fog.

Q. Now have you buffed chrome on other occasions when the blowers were operating normally?

A. Yes, sir.

285

Q. Will you state whether or not your arm was covered by chrome on those other occasions?

A. No, sir.

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Q. Now, what happened that day of August 31st when you were working on the afternoon shift?

A. You mean from the beginning, the time I come in?

Q. Yes.

286

A. I came in about five minutes after three, I believe. I came in for the purpose early, for the purpose of talking to Mr. Morley to see if I couldn't get him to relent on Ambrose Puente's firing. I met him in the tool room, in the tool crib or room. He was sitting on a bench in there and I asked him about Puente. He told me at that time Puente was a good man and he didn't like to lose him either. He also said that he did relent, he would let Puente go to work the next day. Not this day, not the 31st. He was going to penalize him for this day, but he would let him come to work the next day providing the committee went in and talked to Mr. Bernia, I believe, to have Ambrose's card put back in the rack.

Q. Now, as President of the Local Union that grievance of Ambrose Puente came to your attention?

A. You see as a last resort all of the employees bring it to me. It is my job to see when others can's get it done, it is up to me to see if I can't possibly get it done.

Q. What was the information that came to you from employees about the Ambrose Puente case?

A. Well, Ambrose went home at noon. He punched out his card and went home at noon, at lunch time and he didn't return. I didn't know at the time why he didn't return but Mr. Wisswell, the foreman of the department, told me at that time that he would pull Ambrose's card. Later he came and told me he wouldn't pull Ambrose's card. Later I found out through Ambrose that he had

287

an accident with his car while he was home. He was going to push a neighbor's car and somehow or other it must have climbed the bumper of the other car and smashed his headlights. He didn't come to work and that was the reason that Mr. Morley wouldn't fire him, I believe, because he said

he would have to have some kind of a paper to prove this was the truth, and I believe Ambrose did bring that paper.

Q. And so Monday, August 31st, you went in to use your good offices to prevail upon Mr. Morley to take Ambrose Puente back to work, is that right?

A. Yes, sir.

Q. And as you have just testified, he agreed to put him back?

A. He did.

Q. Now what else did you do that day?

A. Well, then we started to work, 3:30. We worked until about—oh, I would say pretty close to 4:30 when Mr. Muniz came to me and told me that the men were refusing to work under the conditions that prevailed.

Q. Who is Mr. Muniz?

A. Mr. Muniz is the steward of the department. I told him to see Mr. Wisswell and that we wouldn't do anything about it until the rest of the men in the department came to me and told me about it, that they wanted me to see Morley about it, Mr. Morley rather, which they did and then I went up into Morley's office and asked him—told him rather, that the men in the department

were not going to work without a blower. He said the blower is all right, "I had it repaired."

I asked him to come out and see for himself which he did. He came out into the department. He came to my machine. He tried the blower there with smoke from his cigar. He never said whether it was blowing or whether it wasn't blowing, whether the blower was working or not. He went directly from there to the cyclo-wash. I walked down there after him. In the meantime Muniz and Mr. Hicks was there at the wash and Mr. Hicks said—

Q. Mr. Hicks is the night superintendent?

A. Yes, sir.

Q. Go ahead.

A. Mr. Hicks said he believed there was too much water on it, the water wasn't agitating. He believed it had too much in it. So they drained off water from that tank. It still didn't agitate, so they went, Mr. Morley, Mr. Hicks, Floyd Wisswell and Joe Muniz went to the blower pipe itself, the main one, a great big large—oh, about 18 inches or maybe more in diameter and there is a big plate that goes on the underside of it that they have to take off so they can get into it and clean it and they had taken that plate down and there still wasn't no draft at that spot. After that Mr. Morley and Mr. Hicks—I don't know whether Mr. Wisswell did or not, but Mr. Morley and Mr. Hicks went to the office. Mr. Hicks returned, I would say about ten minutes to five or five o'clock. He said they had a confab in the office, and I

told him at that time don't tell it to me but tell it to the group, so Mr. Hicks called the group together and told them that Mr. Morley had said any man that punches out they will pull their card, be discharged, as we understand it.

Trial Examiner: Who is this Mr. Wisswell to whom you refer?

The Witness: Mr. Wiswell is the department foreman.

Trial Examiner: Do you know his first name?

The Witness: Floyd.

Q. (By Mr. Corenman) So—

A. Then—

Q. Go ahead.

A. The men all stood around in a group talking it over and finally made up their minds that they were going to go home, which they did, and me with them.

Q. Now can you state whether or not the men before they left for home cleaned up as usual?

Testimony of Harry Harsch

A. Yes, sir, before they left the department the men cleaned up around their machines, stopped their machines, took their wheels off, took them in the wheel room and put them on a spindle and wrapped up their aprons and their gloves, before leaving.

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291

Q. Now I will ask you what your reason was in leaving your place of work on the afternoon of August 31, 1953?

Mr. Langs: The same objection which I previously made to these questions.

Trial Examiner: Which is?

Mr. Langs: The same objections I previously made to these questions, these witnesses stating their reasons for leaving the plant on August 31st.

Trial Examiner: Overruled.

Mr. Langs: This is over and beyond the general objection to this same line of testimony.

Trial Examiner: You may answer.

The Witness: Well, I had a couple of reasons. One was I believed and I firmly believe that it was very dangerous to my health and to the other men's health in the plant. The lint, the abrasive, the dust, the dirt had to be breathed in or swallowed or caught on the skin and I know that in each one of those cases that you have a chance of getting t.b. or any other lung infection or stomach infection.

Mr. Langs: Just a moment, Mr. Examiner, I ask the remarks the witness has just been making go away beyond any qualifications which are in the record so far as he is concerned, and that they be stricken.

Trial Examiner: That motion may be denied. The witness has stated why he acted in such a way. Now those reasons may

292

be good reasons or poor reasons, but in any event they are his, and I am not accepting them as a medical diagnosis. I am accepting them as his statement for the reason why he acted as he did.

The Witness: Also, because of the heat and all of these abrasives, dust, lint, sticking to me, which made me very uncomfortable, and which I assumed made the rest of them feel the same is why I went home that day, in protest of the blower not working.

Q. (By Mr. Corenman) Are you able to give a judgment about how hot it was in the buffing room the afternoon you people left the plant?

A. I would say that when I left home at the gas station, where I get gas, it was 98 by that thermometer on the gas pump, and in the shop I would believe it would be at least 115.

Q. What kind of a day was it outside, as to whether it was a dry day or humid day, if you recall?

A. It seems to me, I believe it was a dull, overcast day, and close.

Q. Now, do you recall whether or not shortly, a few days before August 31st there was any difficulty with the blowers?

A. Yes, on August 21st we had lunch at 7:30 and returned to work at eight o'clock, at which time the blower would not start. Mr. Wisswell, the department foreman, fooled around with it for a while but he couldn't get it to running. Mr. Hicks, the plant

293

superintendent, called in—well, I call him "Des Clocke." He is a maintenance man, to repair it. I watched him. The day men stood around waiting until he got that blower fixed and Mr. Clocke emery-clothed the contact fingers in that

switch, and tightened them up. They were loose. Afterwards, after about an hour that motor started and the men returned to work.

Then on August 28th it went down again about ten o'clock or 10:30, between 10:00 and 10:30 and the employees were sent home on the 28th.

Trial Examiner: Morning or night?

The Witness: The evening shift. The afternoon shift. This all pertains to the afternoon shift.

Q. (By Mr. Corenman) Who sent the employees home or who notified you to go home?

A. Mr. Hicks.

Q. Mr. Hicks, the plant superintendent?

A. Plant superintendent.

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296

Q. Now you have indicated that this was a hot day?

A. It was hot.

Q. Have you ever buffed in your 30 years on a hot day?

A. Yes, sir.

Q. And on those hot days would you have lint stick to you when you were perspiring?

A. The shops I worked in I would say no, a plain out no.

Q. You never had any lint stick to you when you were perspiring?

A. No.

* * * * * * *

Q. All right, isn't it true that you told Mr. Hicks that because

297

of the heat and the fact the day shift went home after two hours, that you would like to have it arranged so that the afternoon shift could go home, too, after two hours?

Testimony of Harry Harsch

A. I don't think that was with Mr. Hicks. I think that was with Mr. Morley that I asked him that.

Q. Isn't it true on that occasion, Mr. Hicks told you he couldn't do that, there was no reason for it?

A. It was not with Mr. Hicks. It was with Mr. Morley.

Q. What directions or instructions did you give to the men in the buffing department on the afternoon of August 31st?

A. I gave no direct instructions to no man in the department. I represent them, not tell them what to do.

Q. As a matter of fact, you told these men to shut down their machines and go out, and if they didn't shut them down you would shut them down for them, is that right?

A. No, sir, I never said that.

Q. How did you tell them to shut down their machines?

A. I didn't tell them to shut their machines down.

Q. I show you General Counsel's Exhibit Number 8, which is a photostatic copy of the notice that appeared on the time clock. Have you ever seen that notice or something similar to that?

A. Yes, sir.

Q. And it was posted on the time clock since on or about March 1, 1951, is that right?

A. That's right.

298

Q. You knew about this notice?

A. I knew about that notice, but that notice was never signed by our committee, to agree to it.

Q. Did you ask Mr—

A. No.

Q. Hicks for a pass pursuant to that notice?

A. No.

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299

Q. And around your machine you found it was necessary to clean up each night, in fact all of the men did that?

A. Yes, sir.

Q. Buffing work as such, buffing and polishing work as such is not rated as one of the cleanest jobs, is that right?

A. That's right.

Q. And on this particular night the die casting department was working?

A. I couldn't swear to it, because Clarence Bantien went home at five o'clock. I think he is the only man in the department.

300

Q. You don't know?

A. No, sir.

Q. Was the plating department working?

A. It certainly was, it must have been.

Q. And the temperature in the tanks is maintained at quite a high degree for plating purposes?

A. I believe so.

Q. In other words, that is quite a hot job up there on a hot night, right?

A. Yes.

Q. Now in the buffing room there is also a big fan at one end, a big 24-inch blade fan?

A. Yes.

Q. And it was revolving at rather high speeds and made quite a bit of noise?

A. I believe.

Q. And that was circulating air in the buffing room?

A. That was blowing air down through the buffing room from one end to the other.

Q. It was circulating the air?

A. Yes, it would go down and come back.

Q. The windows were open?

A. Yes.

Q. The door was open?

A. Yes.

301

Q. And the fan was blowing?

A. Yes.

Q. And the big fan on the blower system was working on top of the roof? It was going, wasn't it?

A. I don't know whether it was going or not. I am not sure of it. I claim it wasn't working, the blower wasn't working.

Q. Were the fan blades going around up there? Could you hear the noise of the motor?

A. Yes, you could hear the noise of the motor.

Q. So that the fan and the motor was going on top of the roof?

A. Yes, I would say so.

Q. On the afternoon of August 31st, Mr Harsch. Mr. Harsch, pursuant to the grievance procedure which is Section 8 (a) of Respondent's Exhibit 1, which is the agreement between the UAW and the CIO, the Knight Morley Corporation and the CIO, it provides as Step 2, provides under Step 1 that a grievance shall be taken up by the employee or group of employees with the group steward and then together with the departmental foreman. Now the man in charge at that particular time, the superintendent in charge of that operation at night, I believe you have indicated was Mr. Hicks. Was there a foreman operating there also that night?

A. Mr. Wisswell, Floyd Wisswell.

Q. Did Mr. Muniz, you have indicated he was the steward?

A. He contacted Mr. Wisswell.

302

Q. He talked to Mr. Wisswell?

A. Yes.

Q. Now, Step 2 provides, or as a part of Step 1, after that procedure the steward and the departmental foreman, the chief steward, if the grievance originates on a shift where there is no committeeman?

A. Yes.

Q. Shall then come into the picture?

A. Yes.

Q. On this midnight shift was there a committeeman in the plant?

A. There was a committee woman in the plant.

Q. A committee woman would be the same as committeeman?

A. Yes, sir.

Q. Was there a committee woman or committeeman in the plant?

A. Yes, sir.

Q. Wes that committee woman or committeeman brought into this?

A. No, I don't believe she was.

Q. Now the next step provides that the chief steward or committeeman shall attempt to work out the solution with the foreman. Did they?

A. They tried.

Q. You have indicated the committeeman was not brought into this?

A. The committeeman tried.

Q. But the committee woman was not brought into this with the foreman or at any time as far as that is concerned?

303

A. That's right.

Q. And then Step 3 is that the grievance written or oral

shall then be referred by the Union to the group committeeman who shall take the grievance up with the plant superintendent. Did the committeeman or the committee woman as the case is here, take this up with the plant superintendent?

A. No, sir.

Q. Mr. Hicks?

A. No.

Q. And Step 4 provides that if the grievance still remains unsettled the plant shop committee shall then further process the grievance in writing at a meeting with plant management as thereafter provided for. Was that done?

A. That I don't know. I couldn't answer that.

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Redirect Examination

Q. (By Mr. Coremman) Did all of the buffers who came to work that afternoon, August 31st, did they all walk out?

A. Every one of those buffers, yes.

304

Trial Examiner: That means then that the entire afternoon shift?

The Witness: In the buffing department.

Trial Examiner: In the buffing department walked out of the plant?

The Witness: Yes.

Trial Examiner: After working about a hour and a half or two hours, approximately?

The Witness: To about a quarter after five, from 3:30 to about a quarter after five.

Mr. Langs: May I ask a further question in the light of what you have just asked, Mr. Examiner? You asked the question, and I think Mr. Harsch stated there were nineteen men walked out on August 31st.

The Witness: That's what I believe, the whole department.

Mr. Langs: There has been one man at least I recall that has testified today that he was not there on August 31st, but he came in the following day. Are you including him in the nineteen?

The Witness: There were two men.

Mr. Langs: My question is, does it include the two men who were not there? Was that seventeen that walked out or were there nineteen?

The Witness: Those two were not included.

Mr. Langs: Was it nineteen that walked out or seventeen?

The Witness: Seventeen, that walked out.

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312

TRANSCRIPT OF TESTIMONY

August 13, 1954

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314

Recross-examination

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Q. (By Mr. Langs) Now, yesterday I believe you identified General Counsel's Exhibit 8, which I show to you, as the notice which was posted on the bulletin board in the plant near the time clock?

A. Yes, sir.

Q. Now, you are familiar with the—I am referring now to

315

Respondent's Exhibit 1(a), the agreement between the company and the UAW-CIO, Section 24, on page 13.

You are familiar, Mr. Harsch, with the three-day rule of absence, consecutive days, and the five days of absence—regular working days in the calendar month—as set forth in that section?

A. Yes, sir.

Q. That I am showing to you?

A. Yes, sir.

Q. And the language reads in this way: That "an employee shall lose his seniority rights and be considered terminated from his employment when he or she (a) quits of his or her own accord; (b) is discharged for cause; (c) unexcused absences for more than three consecutive regular working days or more than five regular working days in any calendar month."

You are familiar with that?

A. Yes.

Testimony of Harry Harsch

Q. Now, pursuant to this excused and unexcused absence, did you ever receive any passes or memoranda from the superintendent or other officers of the company, giving you an excused absence or unexcused absence as it would apply under Section 24 of the labor agreement?

A. Yes.

Q. As a matter of fact, you received many both excused and unexcused absence slips, isn't that right?

316

A. That's right.

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318

Trial Examiner: Even an unexcused absence, if later excused, amounts to an excused absence, doesn't it?

Mr. Langs: That is correct, but the point I am making here is—and it is very much a part of the procedure in the plant—that the individuals could leave the plant, even though they were not excused. They could get what was termed an unexcused absence, and the only difference between an excused and unexcused absence is that an unexcused absence counted as a part of the three days and the five days, isn't that right, Mr. Harsch?

The Witness: Unexcused, yes.

Mr. Langs: All right, I won't press that point any farther at this time.

Q. (By Mr. Langs) Now, yesterday there was one statement which you made which I believe should be clarified. I asked you the question whether or not you had stated to Mr. Hicks that you wanted the men to be sent home in the same manner as they were on the morning shift, because it was a hot day, and I believe you stated that you did not make that statement to Mr. Hicks?

A. That's right.

319

Q. Did you make that statement to Mr. Morley?

A. I made that statement to Mr. Morley in the tool room.

Q. All right. Now, the men that were transferred from the other departments into the buffing room after the afternoon shift of August 31st walked out, was there any grievance filed on behalf of those men who went into the department to work and finished out that shift that night?

A. I don't believe so.

Mr. Langs: No further questions.

Redirect Examination

Q. (Mr. Corenman) Mr. Harsch, with reference to this statement when you went in to see Mr. Morley about the complaints of the afternoon shift, the afternoon shift buffers, about the blower, you concede during the course of the conversation you made some statement to Mr. Morley that you felt he should let the afternoon buffers go home just as he had let the morning buffers go home, is that correct?

A. That is when I went in for Ambrose. When I come in, there was nobody working. The day shift, the plant, in the buffing room, there was nobody working, and I believed at that time that they were sent home because of the heat of that day.

Q. I see.

A. And naturally my idea would be, then, that we always did follow the procedure, if the day shift lost two hours or four hours, if they were sent home, the contract says we would even

320

the time out and most generally they would send the afternoon shift home the same as they did the day shift, and

that is what I was telling Mr. Morley.

* * * * * * *

Recross-examination

Q. (By Mr. Langs) Now, just a minute, Mr. Harsch. You say the day shift went home, and then the afternoon shift would go home. You don't quite mean that, do you?

A. That's the way we had been doing it.

Q. If there was a breakdown in some operation in the morning, and they got it repaired, because there was a breakdown in the shift on some machinery in the morning would the afternoon shift then go home because of that?

A. No.

Q. Then you didn't mean exactly what you said, did you?

A. I meant when they were dividing the work, one shift worked just as long as the other.

Q. Now, this statement which you made to Mr. Morley was made at a time when you were talking to Mr. Morley about the afternoon shift, when you were discussing this problem with him, as you mentioned yesterday, is that right?

A. At that time, when I was discussing that, it was with Mr. Morley when I was discussing Ambrose Puente's case in the tool crib, trying to get Charlie to—

Q. Now, that was when?

321

A. About ten minutes after three on August 31st.

Q. Now, Mr. Harsch, you testified in an unemployment compensation hearing on January 7th in Port Huron, 1954. Do you recall that?

A. I believe I testified.

Q. And at that time did you, in response to certain questions which I will read to you, give certain answers,

and I refer you to page 78 of the official transcript of that proceeding.

So you can follow me, I will show it to you, and we will read it together:

"Question: Now, did you hear Mr. Morley tell a group of men that if they went home they would be considered discharged, that their clock cards would be pulled? Answer: Mr. Hicks told the group that."

Do you remember that question and that answer?

A. That's right.

Q. Do you remember this question and this answer: "Question: It wasn't Mr. Morley, it was Mr. Hicks?" and the answer, "Yes".

Do you remember that?

A. Yes.

Q. Referring to page 79 of the transcript, the question is this:

"Question: Mr. Hicks was the one that told them? Answer: Yes".

322

Do you remember that?

A. Yes.

Q. The next question and answer was this:

"Now, was there any statement made to you that the blower would be fixed at that time? Answer: No, sir."

Do you remember that?

A. Yes.

Q. The next question was this:

"Now, did you ask Mr. Morley to send the men home at that time?" and the answer you gave was this: "When I first came in that evening I asked Mr. Morley about that —no, that was when I went to the office. I asked him why he didn't send the men home that day, the same as he did the day men, the day it was hot."

Do you remember that?

A. I remember that.

Q. Is that correct?

A. I just don't—wait a minute.

Q. Is that a correct answer you gave to the question?

A. That's the answer I gave to that question.

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323

GEORGE KELLY, a witness called by and on behalf of the General Counsel, being first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Corenman) • • •

331

Now, Counsel for the General Counsel offers to stipulate that bargaining meetings relating to grievances and contract negotiations were held on the following dates in 1953:

July 28th, August 6th, August 12th, September 8th, September 14th, September 18th, September 21st, September 24th, September 25th, October 14th, October 29th.

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Mr. Langs: I join in that stipulation. • • •

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332

Mr. Langs: Now, Mr. Corenman has also suggested that I indicate from my notes what took place on the several dates at which I was in attendance, and that he would be in a position to stipulate as to agreement or disagreement with what happened.

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333

At this meeting on July 28th there were certain grievances which were brought up for discussion. Martha Ryan, which was a discharge case; back pay for Irene Musial and Dorothy Cezik. A question concerning the reflection of cost-of-living and piece work rates, computation of Saturday overtime, and method of computing piece work earnings.

Then, in addition to that, the contract—

Mr. Corenman: May I interrupt to say those grievances were all union grievances which the union was presenting to the company.

Mr. Langs: That's right. At that time the company informed the union that the Martha Ryan and Irene Musial and Dorothy Cezik cases were matters that had been considered and answered many months before. We would have to go back into our notes to determine just what that was, at this time. I do not recall, without checking my notes for further refreshing of my recollection, but I do remember that those cases had been previously considered, and decisions had been made.

Also, with reference to the piece work rate and computation

334

of overtime on Saturday, those matters had been considered; and written answers to positions taken by the union had been furnished to the union, and that was the position which the company took with reference to those grievances, and then we proceeded into the discussion of the contract and changes which were to be questioned.

At this meeting we worked out a procedure whereby the union went through the contract, which is Respondent's 1(a) in this case, and indicated the several changes that they were interested in, paragraph by paragraph, and

section by section; and at the same time there was no negotiation or discussion, simply their indication of position, which said what they wanted considered in the new proposal.

At this same meeting also, the company went through the agreement, paragraph by paragraph and section by section, and indicated the positions which the company wanted to have considered, and that was the extent of the meeting on that day.

Mr. Corenman: Might I interrupt here to ask you a question, Mr. Langs? Do you recall that the union submitted a partial contract proposal at the first meeting, July 28th?

Mr. Langs: They submitted certain memoranda of suggested changes at that July 28th meeting, that is right, and then they also added to that certain other oral comments which they wanted to have considered, and the written memoranda was not completed, all—It was certain selected paragraphs which they

335

wanted to have considered, but in reality we went down through the agreement, paragraph by paragraph and section by section, and got from them their ideas, and in turn, the company did the same, and gave to the union their ideas.

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Mr. Langs: On August 6th we met again, the same group, same parties, and at that meeting the union came up with certain additional items where they wanted changes in the proposals which had been submitted at the previous meeting, and the company indicated certain positions which it wanted to have considered, and at this particular meeting, as I recall, this one and the one following, Mr. Young and myself both wanted to leave early, or

possibly he or I--sometimes that happened in our negotiations, where one of us had to leave early. The meeting did not last too long. In fact, there was

336

one proposal on the part of the company and one proposal on the part of the union as to changes, and we agreed to meet on August the 12th.

On August 12th again we met, and the main point of discussion at that meeting, knowing the contract was going to expire on September 5th, and the fact I was going away on vacation, the entire discussion took place considering an extension of the contract which I requested. I felt we should operate under a contract until we could negotiate a new one, and we finally agreed upon extending the contract until September 25th, and that was the accomplishment on that particular date.

Mr. Corenman: Now, you want me to wait until he is all through?

Trial Examiner: If there is anything you want to suggest to him, you may do so.

Mr. Corenman: Directing your attention to the August 6th meeting—and I am reading from your rough notes—at that meeting did the company propose to the union a time limitation on the grievance procedure for each step?

Mr. Langs: That was proposed—no, August 12th.

Mr. Corenman: That was at the August 12th meeting or August 6th meeting?

Mr. Langs: August 12th meeting. Paragraph 8, the company wants a time limit, is my note, and there was no step-by-step

337

procedure or step-by step time schedule in paragraph 8, and that was one of the things which we felt would help to clarify a future contract, and that point was discussed on

August 12th.

I say "discussed". The company simply indicated it would like to have that considered. The main point of discussion that day, however, was on the extension, working out an extension of the contract to September 25th.

The meeting of September 8th you have testified or stated here occurred, I have no reason to doubt that. I was not present. Mr. Morley tells me he is not sure whether it was on September 8th or not, but there was one short meeting held while I was away, at which time he informed the union that he wanted to discuss the matters with me, and that's about the extent of what he recalls of the meeting of September 8th.

Mr. Corenman: Would you mind if I would read into the record my notes on the September 8th meeting?

Mr. Langs: You can indicate what you feel the situation might have been, but I am not reading any notes, and I am only using them for reference—for refreshing my recollection, and I think that is all we should do here.

Mr. Corenman: The September 8th meeting was held in Mr. Morley's office; company representatives were Morley, Holmes and Burnia; union representatives were Garlick, Seifert,

Young and Kelly.

The question for discussion was the afternoon buffers who had been discharged on August 31st. Young, the international representative of the union, proposed that the buffers be put back to work on an interim basis, with no prejudice to attach to either the company or the union's position in the matter.

Young further proposed that upon the return of the men—that is, upon the company's return to work of the buffers—the parties would further negotiate or arbitrate

he matter.

Mr. Morley—the meeting adjourned, the meeting adourned until two p.m., and when it resumed at two p.m. Mr. Morley informed the union representatives that he had been unable to contact his attorney or anyone in his office, but that he had called another attorney who had advised him to take no action whatever on the buffers until he had contacted Mr. Langs.

Mr. Young suggested calling in the Federal Mediation Service to adjust the matter. Mr. Morley agreed, but no action was taken, and neither Mr. Morley nor Mr. Young called the Mediation.

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339

Trial Examiner: Maybe Mr. Langs would ask Mr. Morley if substantially that was the situation on or about September 8th, as stated by Mr. Corenman.

Mr. Morley: I believe that is substantially the situation.

Mr. Langs: Let me ask Mr. Morley this for clarification. He has been sworn before.

Was there any written grievance reference to these buffers filed for consideration by the committee on September 8th?

Mr. Morley: No, there was not.

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341

Mr. Langs: On September 18th we met again at the plant, pursuant to agreement, and present for the union were the same bargaining committee; the company was Mr. Morley and myself, Burnia and Holmes, and in addition to that, the union had brought in Mr. Simms of the State Labor Mediation Board.

Proceedings

We commenced at two-thirty that afternoon. We attempted to negotiate with the union on the new contract, and informed them that we wanted to proceed. The union attempted to bring up the question of the discharged employees, the employees who quit their jobs, as the case may be, in the buffing room

342

on August 31st, no written grievance was filed, and again we insisted that if they were to proceed through the final steps of the grievance procedure, as in the past, that the grievance should be in writing.

They refused to do this until approximately six o'clock, about the middle of the afternoon—or I should say around four o'clock, or four-thirty—and Mr. Simms got the union in one room and the management representatives in another room, and proceeded to go back and forth and try to get them, if they wanted to press this matter of a grievance on the afternoon buffers, to file something in writing.

It was sometime after six o'clock that finally Mr. Simms brought out to the management representatives a written grievance on the afternoon buffers, which was presented to the management at that time, and that was on, I believe a Friday, Friday evening, and we agreed at that time with Mr. Simms and with the union committee that we would present our answer to the union on the grievance the following Monday, and we agreed to meet Monday afternoon, September 21, 1953, which we did, and at that particular time the company—

Mr. Corenman: Are you through with September 18th?

Mr. Langs: Yes.

Mr. Corenman: May I have a moment on that? Well, I don't believe we can stipulate precisely what Mr. Langs' statement was on the September 18th meeting. Some of the salient facts

343

are correct, but not all of them. That is, we don't think they are; I believe we should have the testimony on the September 18th meeting.

Trial Examiner: Now, what parts do you want to save out, as those parts you want to present testimony on?

Mr. Corenman: We do concede the union filed its written grievance on September 18, 1953, and we do agree that the merits of the grievance was discussed between the company and the union, the merits of the grievance relating to the buffers who were discharged on August 31st.

Mr. Langs: I did not state the merits were discussed. I made the statement I insisted upon it being presented in writing.

Mr. Corenman: Do you wish to state they were not discussed, then?

Mr. Langs: Discussions or negotiations upon the grievance did not take place. I insisted it be presented in writing to proceed further under the grievance procedure. That's what I said.

Mr. Corenman: We are not too far apart. We do concede the company requested a written grievance be filed, and the union filed it. Ti.. ' much we will agree to. We will not agree to Mr. Langs' statement that the union refused to sign the grievance, to file the grievance in writing.

Mr. Langs: I didn't say they refused. I said they did

344

finally, after six o'clock that night.

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Trial Examiner: As I understand it now, there is no controversy on the question, the situation, namely, that the first time a grievance was filed by the union was on September 18th, 1953.

Mr. Corenman: That is correct.

Mr. Langs: That's correct.

Mr.Corenman: My notes do show that the merits of the grievance was discussed. If Mr. Langs will stipulate to that, that will be satisfactory.

Mr. Langs: I stated my position on that. I refused to discuss the merits of the grievance in any form until they filed a written grievance.

The position I had taken in all instances was, where I came into the picture, the grievance must be in writing. They knew that, and I had informed them of that, and that was the basis of the discussion that day, and Mr. Simms finally got them—after six o'clock, shortly after six o'clock that day—to file a written grievance.

345

Mr. Corenman: Our note shows the meeting adjourned at four-thirty.

Mr. Langs: That is not right. It was after six o'clock.

The Witness: May I be shown please, my time card, that shows I punched out at four-thirty?

Mr. Langs: I don't know what time you punched out.

The Witness: As a member of the committee, Mr. Langs, I was present at the meeting.

Mr. Langs: All I can indicate to you is that I am refreshing my recollection from the notes which I have. The office had all closed up. There was nobody in the office itself. Everybody had gone home, and we were out there by ourselves.

Mr. Corenman: Why don't we just delete the time it was adjourned? It is not too material, and we may delete it.

Trial Examiner: Do I understand it now that with respect to the date of September 18th that Mr. Corenman agrees substantially with Mr. Langs' statement as to what transpired?

Mr. Corenman: That's correct.

Trial Examiner. Except that you do not join on the point of whether or not grievances were discussed?

Mr. Corenman: That's right.

Trial Examiner: And you want to produce evidence on that particular point, that the merits of the grievances were

346

discussed on September 18th, and you may produce further evidence on the closing time of the meeting.

Mr. Corenman: We do agree with Mr. Langs that he took the position that a written grievance should be filed, and as a matter of fact, he returned the written grievance to the union representatives twice to note corrections of dates. Do you recall that? Asked them to make corrections of dates on the grievance form?

Mr. Langs: I think that's right. As it was finally presented, very late that afternoon, or early evening, there were certain dates which were simply—we called them typographical errors. I mean they were things that were just obviously they had made a mistake in, and I asked them to correct them, and they did.

There was no problem in that.

Mr. Corenman: I will stipulate to the balance of the stipulation. However, our notes show it adjourned at four-thirty, and he shows at six. It doesn't matter.

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347

Trial Examiner: So that you stipulate that Mr. Langs has made a fair statement of what transpired at the meetings up to and including September 18th?

Mr. Corenman: I agree on the September 18th meeting. In other words, on the September 14th meeting we totally disagree, and I wouldn't join in that stipulation.

Trial Examiner: Yes, excepting September 14th.

Mr. Corenman: Yes.

Trial Examiner: As to the antecedent dates to September 14th, you are in substantial agreement?

Mr. Corenman: That is correct.

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348

Mr. Langs: At any of the meetings I attended up to the 21st. I think it was after the contract expired that he came in, and that issue arose at that point, as to whether he should be in or not. I don't think it is material; but—shall I proceed with the September 21st?

Mr. Corenman: Yes.

Trial Examiner: You were saving your right to produce evidence at which meetings Mr. Harsch was present?

Mr. Corenman: That's right.

Trial Examiner: All right, we will go ahead now.

Mr. Langs: I can't tell exactly from my notes, without going through them very carefully, about who was present, because

349

in my notes I simply made the statement saying "union members as previously," excepting those who might not be there, and I would have to go back through each one and pick up the original one and then break it down.

I shall go on to the September 21st, then?

Trial Examiner: Yes.

Mr. Langs: As a result of the meeting on September 18th we met pursuant to agreement on September 21st, and the company at that time, the representatives were present, the same union member who were present at the 18th meeting, and I do have the persons who were at the 18th meeting listed, and Mr. Harsch was not there. Mr. Harsch was not there on September 21st.

Mr. Simms of the S[illegible]e Labor Mediation Board, and

Mr. Nickerson, Federal Mediation Board—if I have that right—or the other way around, one from the state and one from the federal.

Mr. Young was not present.

The Company, as it promised to do, gave its reply to the grievance filed on the 18th, to the bargaining committee for the union, with reference to the employees in the buffing department who walked out on their afternoon shift.

A discussion then took place at some length about the answer which the company gave, and the union's contention in the matter was discussed back and forth and negotiated, and

350

negotiations continued at that point. There were different proposals and counter proposals and suggestions and comments.

No final agreement was reached at that time, and the meeting finally adjourned with an agreement to meet on September 24th, and on September 24th—

Mr. Corenman: At the September 21st meeting was any offer made by the union?

Mr. Langs: I have indicated that offers were made on both sides, in the discussion back and forth in the negotiations, but there was no final conclusion.

They agreed to meet on September 24th.

Mr. Corenman: My notes show there was an offer made by the union.

Mr. Langs: Offers of compromise and discussions which took place have no part in this particular proceeding. I have indicated they did occur on the part of both sides, and the fact we did not reach an agreement on that day, I don't believe there is any point, anything further, that is a matter of consideration by this tribunal or this examiner.

I certainly object to any offers or compromises or sug-

gestions or comments which were made, undertaken, as a means of good faith, to attempt to negotiate and settle grievances which—and this grievance was then properly before the bargaining session—

Mr. Corenman: I will stipulate that the matters were

351

discussed and bargained, but no agreement reached. I will stipulate to that extent.

Mr. Langs: That's what I have said. We then agreed to meet on September 24th, which we did, and there were present the same members of the bargaining committee.

Mr. Young then appeared. Mr. Harsch, according to my notes, was not in attendance. The mediators who were at the previous meeting were not present, and the same personnel for the company were there, Mr. Morley, Mr. Burnia, Mr. Holmes and myself.

Discussion took place then concerning the grievance further, and other matters pertaining, in relation thereto, were discussed, offers and counter offers were made on the matters brought up for discussion, and no agreement was reached at that particular time, and the meeting then adjourned until the twenty-first, or twenty-fifth, pursuant to an agreement prior to the time of the adjournment of that meeting.

There was discussion at that point pertaining to the possibility of arbitration of any grievances which the union had properly presented, and they wanted to have considered beyond the point where they were, that they should request arbitration if they so desired.

There was not a great amount of discussion on that point, but it was mentioned that day.

We then met pursuant to agreement on September 25th.

352

Mr. Corenman: Hold it there for a minute.

Mr. Langs: All right.

Mr. Corenman: We are in substantial agreement as to what occurred on the September 24th meeting. We wish to have it understood—if it is not already stated in the stipulation—that in addition to the buffers' grievance, there was also at least one other grievance taken up.

Mr. Langs: I have stated in my stipulation, which I am willing to agree to, that there were grievances. There were offers and counter offers, and propositions, discussed. No agreement was reached, and we agreed to meet on September 25th, which we did.

Mr. Corenman: I will agree with that stipulation, other grievances were discussed.

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365

Q. (By Mr. Corenman) Now, do you recall what was taken up at the September 25th meeting?

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368

At this point a recess was taken for about ten minutes. When the meeting reopened, the matter of the extensions of contract to the midnight of September 25th, and its expiration at that time. Here Mr. Langs said that all proposals were withdrawn and only negotiations on a new agreement would be considered.

The local union then took the same stand, except that there would be no negotiations considered on a new agreement until the matters in dispute under the old agreement had been resolved. The meeting was then adjourned at 3:10 p.m.

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372

Q. Now, were you working on the morning of September 1, 1953? That was the day after the buffers were dis-

charged, after they left their work?

A. I believe I was.

Q. You worked in what department?

A. In the plating department.

Q. At that time you were a member of the shop committee, is that correct?

A. Yes, sir.

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374

Q. (By Mr. Corenman) Are you able to recollect now what you and the committee did with reference to trying to get the buffers back to work, if anything?

A. That was definitely connected to the buffing room blowers. Mr. Morley said that the blowers had been fixed. The switch had been burned out and had been improperly wired when the new switch was installed.

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375

Cross-examination

Q. (By Mr. Langs) This last statement you just made, Mr. Kelly, with reference to your conversation with Mr. Morley, that was while you were there on the day shift trying to get these buffers, as you said, back to work?

A. Yes.

Q. That was during the time that you were there, working?

A. Yes, sir.

Q. Your hours are what during the day?

A. Seven a.m. to three p.m.

Q. And it was during that time?

A. Yes, sir.

Q. Now, I believe you have heard some testimony here to the effect that from—that is, from some of the witnesses,

that these wires or the adjustment or the attempt to find a change in the wires did not occur until after three p.m.?

A. Yes, sir.

376

Q. And it wasn't until that time that someone discovered there may be a change in some wires. How did Mr. Morley communicate with you before that time that he knew for sure the wires were changed?

A. This was at a meeting held at 1:00 p.m.

Q. At 1:00 p.m. no one had changed any wires?

A. No one had changed any wires.

Q. Your statement was to the effect Mr. Morley said they were wrong at that time. No one knew that at that time, did they?

A. May I see that statement again, please?

Trial Examiner: Let the record show the witness is now referring to his own notes previously referred to, and when he asked to see that statement again, the General Counsel handed it to him.

The Witness: That is the notes, as I have them, Mr. Langs. Mr. Morley said the blowers had been fixed, the switch had been burned out, and then improperly wired when the new switch was installed.

A grievance was to be filed account all p.m. shift cards pulled.

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387

Q. Has there been any arbitration under this contract?

A. One arbitration involving three different employees.

Q. There has been an arbitration under step five, is that correct?

A. Yes.

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393

Q. As a matter of fact, on all written grievances the position of the company was made known to the union bargaining representatives, isn't that true?

A. But the position of the company, Mr. Langs—

Q. Will you answer my question?

Mr. Langs: Will you repeat the question, please, Mr. Reporter?

(Question read.)

The Witness: All written grievances. On all written grievances, written on grievance forms, yes, sir.

394

Q. (By Mr. Langs) Thank you. Now, when the grievances reached step four in the grievance procedure, the grievances were always reduced to writing before they proceeded into the final step, isn't that true?

A. Mr. Langs, there were a good many grievances went through that place there that were not written at all.

Q. I am asking you, Mr. Kelly, about the grievances when they reached the so-called top side of the management bargaining arrangement.

At that point they were reduced to writing, isn't that true?

A. Yes.

Q. As a matter of fact, you so stated in testimony before the Unemployment Compensation Committee, that that was a fact, too, didn't you?

A. Yes, sir.

Q. Now, as to these grievances, which were presented in writing, and which were considered on the day of September 25, 1953, which one of those grievances were processed in accordance with step five of the bargaining procedure?

A. Prior to or after September 25th?

Q. On September 25th or at any time?

A. There were none of those that were presented that ay that proceeded step five.

Q. Step five is the arbitration provision, is that correct?

395

A. Under the contract, yes, sir.

. . . . . .

396

Q. . . .

On that day there was no written request filed by the nion for arbitration under section 5 of the grievance pro-edure, isn't that true?

A. No, sir.

Q. When you say "no, sir," you mean there was none iled?

A. There was none filed.

Q. And as a matter of fact, there has never been any written request for arbitration on behalf of any of these written grievances?

A. You are referring to those grievances under dis-cussion right now?

Q. On September 25th, right.

A. Arbitration, no, I don't recall any.

Q. If there was any such request, which was made, you certainly, as the one keeping the records for the union, you would have a copy of it? You would certainly know about it, wouldn't you?

A. I should think so, yes, sir.

Q. And you don't have any?

A. No, sir.

Q. Now, with reference to the meeting of September 14th, 1953, as I recall your testimony, you stated that the union took the

397

position they wanted the men to go back to work; that's the men on the afternoon buffing shift that left on August 31st, and after they were back to work, then to arbitrate whether they should go back to work.

I think that is, in substance, what you said. Is that correct?

A. That's what was meant. If the arbitration decided they were not entitled to their jobs, then they would have to go home.

Q. As a matter of fact, isn't it true, Mr. Kelly, that the union took the position that they wanted the employees to go back to work, and the only matter they wanted to arbitrate was the question of whether they got back pay. Isn't that true?

A. That was never my understanding of it, no, sir.

Q. The question of back pay was not a part of the grievance?

A. It wasn't written onto the grievance, that I recall, no, sir.

Q. Well, let me show you General Counsel's Exhibit Number 24.

A. Maybe it was.

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398

Q. (By Mr. Langs) Do you want to change your testimony now?

A. I want to admit that I am in error. I wasn't concerned, I haven't thought of the back pay. It hadn't occurred to me that was a part of it, although I wrote the grievance.

Q. That's what I was going to ask you, if that wasn't your writing. That is your writing on there?

A. I wrote the grievance.

Testimony of George Kelly

Q. And as a matter of fact, the thing that was to be arbitrated in accordance with the union's position was the arbitration of back pay, and put the employees back to work, and that was not to be arbitrated?

A. That was not my understanding of the matter at all, Mr. Langs. My understanding of the matter was if the arbitration panel determined they were not entitled to their work, they would go home. There would, therefore, be no question of back pay on that.

Q. As a matter of fact, the company, as a part of this offer and counter offers, which you have been discussing here, offered to return all of the employees to work without back

399

pay at that particular time, isn't that true?

A. Providing we would accept the penalty.

Q. What was the penalty?

A. The penalty was the president of the local union be penalized one week for having supposedly instigated a wildcat strike.

Q. But the offer was made by the company?

A. The offer was made by the company.

Q. To put back all of the employees without back pay?

A. Without back pay.

Q. So on that basis the only dispute between the parties would be the question of back pay, is that right?

A. No, sir, the penalty—

Q. It would still be a question of back pay, isn't that right?

A. That would depend entirely on how you looked at it.

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400

Q. (By Mr. Langs) On September 14th you were in the process of preparing this written grievance, or one similar

to it, which is General Counsel's Exhibit Number 24, is that right?

A. I don't know which one it was, but I know I was requested to prepare one.

Q. As a matter of fact, you were preparing a grievance with reference to the buffers that went out on August 31st, on September 14th?

A. I do not recall what it was in connection with.

Q. And the grievance was not filed on that date, is that right?

A. There was one written grievance—I don't know when it was—there was one grievance being written, and it wasn't filed that day, no, because the meeting concluded too fast for

it to be filed, before it could be written and filed.

Q. I see, and at that particular meeting this grievance was not filed, and Mr. Young took the position he was not going to prepare any written memoranda, grievance, or other things which might be of assistant to an arbitrator, is that right?

A. No, sir, I do not recall any such thing.

Q. As a matter of fact, it wasn't filed that day; that you do know?

A. I do know it wasn't filed. I will agree to that.

Q. And you say it wasn't filed because there wasn't sufficient time?

A. That is as I recall it, yes, sir.

Q. When did we meet on September 18th? What time did we start our meeting on that day?

A. My notes will show that.

Q. Isn't that the meeting where Mr. Simms, the State labor mediator, was there, and after we had talked for quite some period of time he then got us in separate parts of the Knight Morley office? Do you remember that?

Testimony of George Kelly

A. I remember that having been done, but just what the date is, I would not say.

Q. And after considerable discussion, and as a matter of fact, the very last thing, during that particular discussion, then and only then was this exhibit, General Counsel's Exhibit

402

Number 24, presented, isn't that right?

A. I wouldn't know whether this was the General Counsel's Exhibit, as from that date.

Q. That's the grievance filed on behalf of the buffers and polishers that walked out on August 31st, isn't it?

A. This is the grievance on that, yes.

Q. That was filed with the company on September 18th?

A. September 18th.

Q. And was filed as a result of the going back and forth by Mr. Simms, who was the State Labor Mediator, who was there at that meeting, is that right? Is that right or wrong?

A. Yes, sir.

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408

Recross-examination

Q. (By Mr. Langs) * * *

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410

Q. I show you General Counsel's Exhibit Number 8, which is a notice of March 1, 1951. Do you recall that notice?

A. I recall having seen the notice, yes, sir.

Q. And it has been posted on the bulletin board, alongside of the clock?

A. Yes, sir.

Testimony of George Kelly

Q. Did you ever receive any passes or notices signed by Mr. Hicks or Mr. Hebel, or one of the superintendents, either as an excused or unexcused absence?

A. Yes, sir.

Q. How many times did you ever receive those, approximately?

A. Oh, twenty-five or thirty.

Q. An excused absence did not count against the three or the

411

five-day rule, is that right?

A. That's right.

Q. An unexcused absence did count against the three or five-day rule?

A. Yes, sir.

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412

Mr. Corenman: * * *

Mr. Langs asked you, Mr. Kelly, if he ever was at a meeting at which a grievance was submitted which was not in writing. I believe you answered "yes" to that. How about the September 25th meeting, the last meeting at the expiration date of the contract? Were some of those grievances not in writing?

The Witness: They were hangovers, grievances that had been written previously.

Mr. Corenman: Do you know if there were any unwritten grievances on September 25th?

The Witness: Not under discussion, I don't recall any, no sir.

Mr. Corenman: How about the Ambrose Puente case?

The Witness: The Ambrose Puente case? Mr. Morley had

413

settled that one by saying he would not be rehired.

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416

THADDEUS ZEMBOL, a witness called by and on behalf of the General Counsel, being first duly sworn, was examined and testified as follows:

Direct Examination

417

Q. Do you recall the occasion where the buffers on the afternoon shift were fired on or about August 31, 1953?

A. Yes, sir.

Q. Did you work on the morning of August 31, 1953?

A. Yes, sir.

Q. You were at that time employed as a buffer on the day shift, were you?

A. That's right.

Q. Now, did you notice anything unusual about the blowers, if anything, on the morning of August 31, 1953?

A. The blowers didn't work. The motor seemed to be working, but they didn't draw nothing.

418

Q. What was it that brought to your attention that the blowers weren't drawing?

A. Well, we tried it out. I took some dirt from the box and put it by—over the air, where it draws, you know, and instead of drawing it, it fell right down in the box again.

Q. Will you state whether or not you had ever made such a test—

A. Yes.

Q. —on similar occasions when the blowers were operating?

A. Yes.

Q. State whether or not the blowers took the dust out of your hand on those occasions?

A. Yes, sir, it did, it did.

Q. Now, did you observe anything that morning with respect to whether or not there was any dirt or dust?

A. Yes, sir, it was all over our clothes and hands and face.

Q. That morning do you recall what type of buffing you were doing?

A. Well, our regular work.

Q. Now, were you working—strike that. How long did you work on the morning of August 21st?

A. I believe it was two hours.

Q. Then what occurred?

A. Well, they told us they were going to try to fix the

blowers, and they sent us home.

Q. Now, will you state whether or not on the morning of August 31st the dust in the air affected you in any way?

A. Yes, sir.

Q. Will you tell us in what way?

A. Well, it was such a hot day. It was going in our noses and our faces, you know, and it was all ver our arms. It was impossible to work.

Q. Will you state whether or not on other occasions, when the blowers were working good, the dust affected you that way?

A. No, sir. That day we had to go to the air and clean ourselves off about every half an hour, and other days, why, we only cleaned ourselves once a day, when we quit.

Q. Now, will you state whether or not you did anything about it on Monday morning, when you noticed the blowers weren't working?

A. The only thing, I told the foreman about it, and the foreman said they were going to do their best. That's all he told us.

Q. Who was the foreman at that time?

A. Johnny Vandelberg.

Q. Did you go to work the following day, Tuesday, September 1st?

A. Yes.

Q. What did you notice about the blowers that morning?

420

A. They were the same as they were the day before.

Q. What, if anything, did you do about that on Tuesday, September 1st?

A. Well, the only thing you could do was tell the foreman, and he says, "Well"—

Mr. Langs: I object to that, about what he could do. The question is what he did do.

Trial Examiner: Sustained.

Q. (By Mr. Corenman) What did you do?

A. We told the foreman again about the blowers, and—

Mr. Langs: I object to that.

The Witness: We, ourselves, couldn't do nothing about it.

Trial Examiner: The objection is overruled.

Q. (By Mr. Corenman) Who, if anybody, did you talk to?

A. Johnny Vandelberg, our foreman.

Q. What did you tell Johnny?

A. I told him about the blowers, they didn't work again.

Q. How long did you work on Tuesday, September 1st?

A. Worked all day, eight hours.

Q. I will ask you to state whether or not you considered

leaving your work on Tuesday, September 1st?

Mr. Langs: Just a minute. I object to that. It is calling for a conclusion. It is not important in this case. What he did is all right, but what he might have thought of is

421

objectionable.

Trial Examiner: The objection is sustained.

Q. (By Mr. Corenman) I will ask you if you knew at that time—

Mr. Langs: Just a moment. I object to this leading of the witness here.

Mr. Corenman: I will withdraw the question.

Q. (By Mr. Corenman) Why did you remain working on Tuesday, September 1st?

A. From what we heard, the afternoon shift was fired, and we was afraid we would be fired too.

Q. Now, when you were working there on Tuesday, September 1st, did you notice what, if any way, how did the dust affect you? The dust and dirt, on Tuesday.

A. The same, the way it did the day before. It was getting all over our faces and hands and clothes, and it was getting all over the floor.

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Cross-examination

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422

Q. (By Mr. Langs) Did you ever engage in the cleaning of the buffing room?

A. Yes, sir.

Q. That is this so-called regular Saturday cleaning?

423

A. Yes, sir.

Q. When you cleaned, you cleaned the dirt off the floors and around the machines?

A. Yes.

Q. And from the pipes?

A. Yes.

Q. And you put that in a wheel barrow?

A. Yes.

Q. And took it out and put it on this big pile of dirt that is out back of the plant ,is that right?

A. Yes.

Q. You also took the dirt out of this so-called wash, water wash machine, which helped to clean the air?

A. Yes.

Q. You took it out of there also?

A. Yes.

Q. In the normal course of a week's time, you took out several pounds, or wheel barrows, full of dirt from the floor around the machines, and on a Saturday when you were called in to clean?

A. Yes, sir.

Q. You also took out some dirt, wheel barrows' full, from the water washing system?

A. Yes, sir.

Q. In other words, in the normal course of events there was dirt which occurred in the buffing operation, isn't that right?

A. Yes.

Q. And if it was a warm day and you were sweaty, under normal conditions you would get lint, and some of the dirt would stick to your arms and to your shirt, and so forth, isn't that right?

A. Oh, not so bad.

Q. It would do that, though, wouldn't it?

A. Very little.

Q. It would do it to some extent?

A. Yes, sir.

Q. Now, this buffing wheel protrudes out a short distance from the front of the hood which covers the jack, isn't that correct?

A. Yes, sir.

Q. In other words, it projects out about four inches or five inches, something like that, out from the hood in the front?

A. It depends on what kind of a wheel. If it is a new wheel it sticks out quite a bit.

Q. Mow much would you say it sticks out?

A. I couldn't tell you, I couldn't tell you.

Q. Would you say that my observation of three, four, five inches is wrong?

A. Well, I couldn't tell you one way or the other, because I don't know.

Q. Well, would you say that is a fair statement? Is that a

425

reasonable statement?

A. I think so.

Q. So that when you would pick up anything and hold it in your hands in front of this wheel, whatever you held in your hands would be a matter of a few inches away from the hood, isn't that right?

A. Yes.

Q. So in order for that material to be drawn into the hood, something would have to pull it off of your hands and pull it back in before it could drop down in the box on the floor, isn't that right?

A. I don't understand. Could you explain it again?

Q. Well, I will try it once more. When you would pick up—you said you would pick up some dirt.

A. Yes.

Testimony of Thaddeus Zembol

Q. And you held it in front of the wheel?

A. No, in front of the hole.

Q. The wheel comes out of the hole, isn't that right?

A. That's right.

Q. So you wouldn't put your hand inside the hole with the moving wheel?

A. We didn't even start working it when we tried it out.

Q. Well, the wheel would be going, isn't that right?

A. It is not necessary, whether to go or not.

Q. Now, you stated that you were working there—

426

A. Yes, sir.

Q. —and while you were working, I assume when you said you were working that you were engaged in the process of buffing and polishing, is that right?

A. Yes.

Q. The only way you buff and polish is with the wheel going, isn't that right?

A. Yes.

Q. You don't buff with the wheel standing still, is that correct?

A. Yes, sir.

Q. So that when you went to make a test of this thing, you were testing it at that particular time, while you were working?

A. Yes, sir.

Q. Right?

A. Yes.

Q. So when you held this thing up, you had to hold it far enough away so that you didn't get your fingers or your hand into the buff wheel, isn't that right?

A. What we did is shut the machine off and try that out.

Q. I see. Now, that's the way you did it? You didn't try it any other way? In other words, you want to make that your testimony at this time?

A. Yes, sir.

Q. You didn't try it with the machine working?

427

A. Well, we tried—it was raking the wheel. In the—when the blower worked it sucked the dirt and dust from the wheel in, and at that time when we was raking it, it was going all over the room instead of blowing in.

Q. What about this time when you said instead of going up through the pipes it dropped down to the box? The box is where?

A. Right below the wheel.

Q. And that is inside the hood?

A. Yes.

Q. In order to get into the box it has to go inside the hood?

A. Yes, sir.

Q. Is that correct?

A. Yes.

Q. So something would have to pull it off from the wheel, or at least pull it as far as the distance of the outside diameter of the wheel into the hood, whether that is four inches or five inches or three inches or one inch?

A. Yes, sir.

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428

Q. Now, so far as you are concerned, having been engaged in the buffing and polishing operation, over a period of several years, you know, as a matter of fact, that operation is not the cleanest type of work, isn't that true?

A. That's right.

Q. There is a considerable amount of dirt or dust from

rakings and other things, which will fly around in that type of operation, that's true, isn't it?

A. Yes.

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430

JOE MUNIZ, a witness called by and on behalf of the General Counsel, being first duly sworn, was examined and testified as follows:

Direct Examination

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432

Q. (By Mr. Corenman) What shift did you work on?

A. Afternoon shift.

Q. Your hours were what?

A. From three-thirty to twelve o'clock.

Q. Were you a member of Local 1125 of the Union?

A. Yes, sir.

Q. Did you hold any job with the union or position?

A. I don't know what you mean there.

Q. Well, did you hold some position with the union?

A. Yes.

Q. What was your position with the Union?

A. Chief steward.

Q. Chief steward?

A. Steward.

Q. Do you recall what kind of a day August 31st was with respect to the weather?

A. August—let me see. Excuse me. August 31st, first time we have troubles there.

Q. I am sorry, I didn't hear you, Joe.

A. The 28th of month. First time we have troubles in there, is that what you mean?

A. No. What kind of a day was August 31st? Was it a hot day or a cold day?

433

A. It was hot.

Q. A hot day?

A. Yes.

Q. Now, when you came to work that day did you start work, as usual, on August 31st?

A. Yes.

Q. Did you notice anything unusual that day? After you came to work?

A. Yes.

Q. Will you tell us what you noticed?

A. Real hot, and the blowers not in working condition.

Q. Now, how did you know the blowers weren't working?

A. They wouldn't suck dirt in there, in the trap, what you call it.

Q. Now, how do you know the blowers didn't suck dirt?

A. Well, I come close to the wheels—well, the first thing, people, you know—I no work, but people start coming to me and say, "The blowers don't work".

Q. You say people started to come to you?

A. Come to me to complain about these blowers.

Q. So what did you do about it?

A. I went to see Floyd Wiswell, the foreman.

Q. Yes?

A. And we went checking the blowers, and we went check the water, and we drain some water out, and nothing do.

434

Q. Where did you drain the water out of?

A. I don't know what they call it. There is a pipe in the bottom, a hole in the bottom, and we drained the water out from that pipe.

Q. This is a pipe in the bottom of that water tank, is hat it?

A. Where all of the dust—you know, dirt—

Q. The tank that collects the dirt?

A. Yes.

Q. You opened the water pipe to let some water out of it?

A. That's right.

Q. And then what did you do?

A. Well, we check, but we find nothing wrong, and that time—

Q. Let me ask you this: Did you say you made a check after you let the water out of the water pipe?

A. Yes, we check 'em up.

Q. What kind of check did you make?

A. We check the pipe, we check the blowers, check the blowers again, and no draft.

Q. When you say "we"—

A. We.

Q. Was somebody along with you?

A. Yes.

Q. Who was with you?

A. The foreman.

Q. Floyd Wiswell?

A. Yes.

Q. State what he was doing while the check was being made. Was he with you in the checking?

A. Yes.

Q. Just how did he make the check?

A. He say he no know what was the matter with it, that's what he ask me. He don't know what is wrong, the blowers don't suck the air.

Q. So what did you do about it then?

A. Well, that time Bill Hicks come from the office, and talk about these blowers. He come and check it too, check them up. We didn't—I don't think we find nothing, you know.

Q. What kind of a check, if any, did Bill Hicks make, as you observed? What did he do?

A. He don't do a special check. Just see the air don't blow or nothing, and he went to the office again, to the office.

Q. Then what happened?

A. Well, we talk to Harry Harsch about these blowers, the president of the union, and he told me to go check with Bill Hicks, you know, and all things, all of the things, so Hicks come and we check the blowers, and Morley come, too, at that

436

time.

Q. You say Mr. Morley came too?

A. That's right, and me, and Mr. Morley and Harry Harsch, John Smith and Bill Hicks.

Q. I didn't hear you.

A. And Floyd Wiswell.

Q. All of you went together?

A. Yes.

Q. And what did you do?

A. Well, Charley Morley got a cigar in his mouth and go over there at the end of the pipe and see if it sucks, you know, the cigar smoke, and you know, it didn't suck good, but he say, "It is all right."

Q. What did you notice about the cigar smoke?

A. Well, it was away down, you know, but not what it was supposed to be.

Q. Now, what did you do after that, if anything?

A. Charley Morley, Charley come and check my jack

over here, you know, where I work, and then he turns around and goes up to Harry Harsch, so nothing happened. I don' know what he talking about.

Q. You say when you asked Mr. Morley to check your machine he turned around and walked over to Harsch?

A. He never listen to me. He just turn around and walk over to Harry Harsch.

437

Q. Now, will you state whether or not you talked over with the men—whether there was any talk with the men concerning this?

A. You mean the temperature inside?

Q. Was there any talk between you and the men about the blowers? By "the men" I mean the other buffers.

A. Oh, yes.

Q. Will you tell us what was said?

A. The guys talk about it is too hot, you know; it was real hot that day, and them blowers never in working condition.

Q. I didn't hear you.

A. The blowers not in working condition. I know it was real hot.

Q. The blowers not in working condition, not working?

A. When the blowers work, and in condition, you know, they blow air, cool air. We feel it when we work. I don't mean you be cold or something, but you feel that draft, but we don't see that, and it was too hot inside.

Q. Do you have any judgment as to about how hot it was in the room that day?

A. Well, I see one of those meters Mr. Morley have in the plant, he have about a hundred and eight degree right in the buffer room.

Q. One hundred eight?

A. Yes.

438

Q. Well, then, what else happened?

A. Well, Bill Hicks went—you know, Morley went to the office, and we stay around over there, and the guys don't want to work, and they say, "We don't want to work", you know, "with these hot and the dirt loose from the buffing wheels", what you call them, and so they come to me and say, "What are you going to do?", and I say, "Well, I will try to do something, see if they can fix the machines", you know, so I come to the guys and nothing happened.

Q. State whether or not you saw Bill Hicks any more that afternoon.

A. Yes, yes. When we talk about these—excuse me. Bill Hicks went to the office, you know, and went and talked—I don't know if he went to talk to Charley Morley, but when he come back he said nothing he can do about it.

Q. Who did he say that to?

A. He said to me, right there, he said to me, and I can't remember who, that day, it is so long.

Q. Yes. Now, did you see Mr. Morley any more that morning?

A. Excuse me?

Q. Or that afternoon?

A. Excuse me, can I say after that—

Q. I will withdraw this last question. Go ahead.

A. And Bill Hicks come, come to the buffer room, and told all the gang in there, he said "You boys want to stay, it is

439

okay; the ones don't want to stay, they are discharged", so Harry Harsch is the one take charge that afternoon and tell the people. I can't remember, exactly, you know. It is pretty hard to remember.

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Testimony of Joe Muniz

443

Cross-examination

Q. (By Mr. Langs) * * *

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448

Q. On two sides of the buffing room there are windows?

A. Yes.

Q. In fact, there is a complete continuous set of windows all of the way around those two sides?

A. Yes.

Q. And on a hot day those widows would be open?

A. Yes.

Q. And there are doors into that buffing room, isn't that right?

A. Yes.

Q. And those doors would be open, isn't that right?

A. Yes.

Q. And there is a big entrance door where the tumbling barrels are, going into the buffing room, is that right?

A. What do you say?

Q. Tumbling barrels. You know what the tumbling barrels are? Those barrels that go round and round.

A. Oh, yes, that's right.

449

There is a big opening there? ———

A. Yes.

Q. In fact, very large. Possibly fifteen feet or so wide, is that right?

A. Yes.

Q. So that there were plenty of openings in and around this buffing room on the day of August 31st?

A. That's right.

Q. And there was a big electric fan in there that was

circulating the air, is that right?

A. Right.

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Q. Now, you stated after you had been working there for a

450

period of time, the men came up to you and talked to you about the blowers?

A. Yes.

Q. After you had been working for an hour or an hour and a half, whatever the period was, something like that?

A. Yes.

Q. They came up to you; talked to you about the blowers?

A. Yes.

Q. That's the time you noticed something wrong?

A. I notice it.

Q. That's the first time anything was mentioned to you at that time?

A. Yes.

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451

BETTY JEAN ELSHOLZ, a witness called by and on behalf of the General Counsel, being first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Coreeman) • • •

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452

Q. Were you one of the girls who walked out on the strike on September 30th?

A. I was.

Q. And after you were on strike did you make any attempt at a later time to get back to work?

A. I did.

Q. About what date was that?

A. It was about the middle of January. I think it was the 18th. I am not sure.

Q. About the 18th of January of this year, 1954?

A. Yes.

Q. What did you do about trying to get back to work?

A. I called Herb Hebel.

453

Q. You called Herb Hebel?

A. Yes.

Q. He is the superintendent?

A. Yes.

Q. What conversation did you have with him?

A. Well, I asked him if there was any chance of getting back my job, and he said, "Yes, if you want to come in and make out an application," and I said, "Does that mean without seniority or anything?" and he said, "Yes, you have to come in as a new girl, because right now we can't take any of the old members back."

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455

Cross-examination

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Q. (By Mr. Langs) Are you the same Betty Elsholz that gave some testimony in 1954, August 3, 1954, at an unemployment compensation case in Port Huron?

A. Yes, sir.

Q. And at that time you stated when you talked with Mr. Hebel—strike that. I will start over. At that time, at

this hearing on August 3, 1954, in answer to my questions, you stated that you would not come back to work and cross the picket line, isn't that right?

* * * * * * * *

457

The Witness: That's right.

Q. (By Mr. Langs) what is your answer?

A. That's true, yes.

* * * * * * * *

459

BERNARD J. YOUNG, a witness called by and on behalf of the General Counsel, being first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Corenman) * * *

461

Q. (By Mr. Corenman) Do you recall there was a bargaining session held on September 25, 1953?

A. I do recall such a session and I attended such a session.

Q. Do you recall who the various people were who attended that meeting?

A. I believe the company was represented at that meeting by its counsel, Mr. Langs. I believe—I know Mr. Morley was there, Mr. Burnia. I don't recall whether Mr. Lebel was there. I do believe Mr. Holmes was present, representing the company.

For the union there was the bargaining committee consisting of Al Garlick, Bob Seifert, Gay Bruder and George Kelly, and myself representing the International Union.

Q. Will you relate to us what occurred at that meeting?

Testimony of Bernard J. Young

A. My recollection of that meeting is as follows: At the beginning of the meeting I pointed out to Mr. Langs that under the circumstances, and due to the expiration of the extended agreement at midnight of that date, September 25th, it was desirable that a number of the outstanding unsettled matters that had been discussed from time to time with the company be resolved, and that as a factual matter we were in a position where, unless we could get some resolution on some of those matters, we would have difficulty coming to any conclusions on

462

a further extension of the agreement.

Q. Do you recall what else took place at that meeting?

A. Well, I recall at the beginning of the meeting Mr. Langs took the position that the grievances which we had been discussing, both written and unwritten, would terminate with the termination of the agreement at midnight, and I remember there was considerable discussion about that point.

Mr. Langs insisted that we proceed with the consideration of the extension of the agreement. I continued to point out the practical situation that we were faced with, and I believe then we had a recess I think of about ten minutes.

Upon reconvening, my recollection, that Mr. Langs told the committee and myself that all propositions that had been advanced by the company to that date, in relation to any of the disputed matters, was withdrawn, that when the contract expired at midnight the possibility of any further discussion of those grievances and those unsettled matters also expired, that the responsibility of the company to further discuss those matters ended with the expiration of the contract at midnight.

Q. Now, do you recall whether or not any grievances were taken up at the September 25th meeting?

A. Yes. All of the grievances that had been originally presented in the series of contract negotiation sessions, all the grievances that had been presented originally on July 28th

463

at these sessions, in addition to the ones involving the discharge of Ambrose Puente, the case of the eighteen buffers, and the matter of the three-cent annual improvement factor, were discussed at this particular meeting.

Now, the other grievances, in addition to the three I have named, would be the Martha Ryan grievance, the matter of Irene Musial and Dorothy Cezik, I believe it was. That was a joint grievance. The matter of Helen Waite. Helen Waite was a probationary employee. Under the circumstances, there was some question whether we were entitled to bargain in connection with anything relating to her case. We weren't pressing for a settlement. We were requesting relief.

I believe that is the grievances that were brought up.

Q. Do you recall if any other grievance was discussed at the September 25th meeting?

A. In addition to the—

Q. In addition to what you have already named? Maybe you have named it. I don't know. Did you discuss any grievance—

Mr. Langs: Just ask it. I object to leading questions.

Q. (By Mr. Corenman) All right, go ahead. Do you recall anything else?

A. No. There may have been another one, but I don't recall at this particular time.

Q. Was a grievance taken up concerning the cost-of-living clause?

464

A. Oh, I beg your pardon. As a matter of fact, there

were two more taken up, and these two were introduced in the July 28th meeting.

One involved the question of the proper reflection of the cost-of-living increases in the piece work rates, with respect to that grievance, and I would like to point out—or that matter—I would like to point out that sometime late in November, in 1952—or maybe it was December, early December—we transmitted a letter to the company requesting, pointing out the method by which it was our opinion the piece work rates could only—could only properly reflect the cost-of-living increases, we took a specific case in our letter, we requested the company to communicate with us their ideas as to how the matter should be properly reflected in the piece work rates.

On that particular matter we received no response to our communication, with the result that I believe some time late in January—perhaps it was around about January the 28th—we presented a grievance protesting the failure and the refusal of the company to answer that communication, and I believe approximately eight days thereafter we received an answer from the company to that communication, and in their communication to us—I believe it was dated February the 8th—but in their answer to us they gave us a general reply rather than the specific reply that we requested, with the result—as a matter of fact, we don't know any more today about the

method that they used to compute the piece work rate, from the standpoint of the cost-of-living increases, than we did at the time we sent our communication to them in early December, 1952.

Now, the other matter involved the method of computing overtime on Saturdays. We raised the question of the propriety of the company with respect to workers who were

on a day rate on Saturdays, computing their overtime for those Saturdays on the basis of time and a half of the day rate. It was our position that the overtime actually should have been computed—should be computed on the basis of the averages compiled during the week by each employee with respect to average earnings.

I might point out that that matter had not been presented to the company in writing.

Q. Were you able to reach agreement on September 25th with the company on any grievances that you presented?

A. We were unable to reach any agreement, and as a matter of fact, it is my opinion—if I might so state—

Mr. Langs: I object.

Trial Examiner: No no.

Mr. Corenman: Don't give us your opinion.

The Witness: For all practical effects—

Mr. Langs: I object to any practical effects of any kind.

Q. (By Mr. Corenman) You state there was no agreement reached.

A. No agreement reached with respect to any of the grievances.

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466

Q. Now, following that meeting, during the weekend can you state what, if anything, you did to get in contact with the company again for another meeting?

A. Yes. On—approximately noon on September 27th, which was a Sunday, I contacted Mr. Dale Ricketts, the Federal conciliator assigned to the dispute, at his home in Flint.

I requested that he get in touch with the company through its counsel, Mr. Langs, and attempt to do two things: One, arrange a meeting with the company to see

if there was any possible possibility of bringing the parties together in the dispute that was at hand. Number two, to secure a commitment from Mr. Langs that the status quo conditions in the plant, wage rates and so forth and so on, would be maintained until such a meeting could be held.

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467

Q. (By Mr. Corenman) Now, what next did you do, after your contact with Mr. Ricketts?

A. The next development in this situation was on the afternoon of the Tuesday following that Sunday, which would be September the 29th.

I had arranged a meeting with the committee at the home of George Kelly, the financial secretary of the Local, and a member of the bargaining committee, for the purpose of seeing if they were willing to proceed with the meeting on Friday, the 2nd, on the qualified basis of discussing only contract matters, and nothing related to the unresolved matters in

468

dispute.

At this meeting, which was attended by all of the members of the bargaining committee, I believe, but Gay Bruder, who had been advised by the committee apparently to remain in the plant and see what was going on—I was advised by the committee that for a number of reasons—

Mr. Langs: Just a moment. I object to any statements here made that are out of the presence of the company's representatives as to what they might have decided to do. It is unimportant insofar as we are concerned, and any meeting which might have been held in their home, it is strictly hearsay.

Trial Examiner: The anticipated testimony as to what was said and what was done will be received as evidence of

concerted activity, but I specifically point out that it will not be binding upon the respondent.

The Witness: The committee advised me that they would not, could not, under the circumstances, agree to a meeting on Friday, October 2nd, on a qualified basis of that nature, and that for the following reasons they could not hold the people in the plant beyond Wednesday, beyond sometime in the morning of the following day.

Those reasons were as follows: One—

Mr. Langs: Just a moment. Again I think what reasons they might list, (a), (b), (c), are certainly not binding upon

us, and can only be self-serving statements in this proceeding at this time.

Mr. Corenman: The purpose of this is to show the action the committee took, Mr. Examiner, and to show what influenced them to take that action.

Trial Examiner: I will receive this testimony, again pointing out it is not binding upon the respondent at this point.

The Witness: Among the reasons which the committee advanced as being responsible for their inability to hold any action in abeyance beyond the morning of the following day was, one, that the situation, the over-all situation which had developed, came out of a number of things, among which were a threat by the company to spend as much as ten thousand dollars to lick the union.

Two, the statement, alleged to have been made by the company, Mr. Morley, I believe, to the committee, to arbitrate the union to death, they would arbitrate them to death.

Three, absolute refusal on the part of the company to actually negotiate or bargain on the grievances pertaining to Ambrose Puente after the company had reneged on the

agreement it had made with respect to his reinstatement; the company's refusal to actually bargain on the matters relating to the buffers or to consider any of the facts introduced by the union in the case; * * *

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470

Trial Examiner: This isn't binding upon the respondent, and I also want to point out—with reference to the witness's statements as to what was said—that they are being accepted as his testimony only to the point that such statements were made as he testified to and were not being accepted by me as the truth of the situation.

Mr. Corenman: That is correct.

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471

Q. Now, what action did the committee take that day, if any?

A. The committee decided that they would attempt to arrange a meeting the following morning with Mr. Morley, and if unable to arrange a meeting, and come to some satisfactory conclusions, on the disputed matters, that they would exercise the authority, discretion which had been invested in them, at the strike vote meeting on September 23rd, and strike the plant.

Q. Now, after the strike began, state whether or not you made any further efforts to arrange for a meeting with the company.

A. Under date of October 5th I transmitted a communication to the company, pointing out that we would like to meet with them for the purpose of negotiating both on the matter of the contract and on the matter of the unsettled grievance matters.

Q. And were you able to arrange a meeting?

A. Such a meeting was arranged through the facilities

and the services of the State Mediation Service in conjunction with, this particular instance, the Federal Conciliation Service.

472

Q. And that meeting was held on October 14th, is that right?

A. That meeting was held on October 14th in the offices of the State Mediation Service in the City of Detroit.

Q. And who was present for the company at that meeting?

A. Mr. Langs, its counsel, and Mr. Morley, its president.

Q. And who, for the union?

A. For the union, the members of the bargaining committee, which I have previously named, and myself.

Q. Now, what took place at the October 14th meeting?

A. I would like to add to the answer of the last question, if I may—

Q. Yes.

A. Mr. Harsch was also present at this October 14th session.

Q. Now, what took place at the October 14th meeting?

A At the beginning of the meeting a question was raised by Mr Langs as to any requirement on the part of the company to bargain on a contract covering the people who had failed to respond to its letter of October the 1st or 2nd, I believe it was, with respect to returning to work on October 5th.

Mr. Langs took the position that any contract negotiated would cover only the people who had remained in the plant on the morning of Wednesday, September 30th, when the strike began.

I pointed out to Mr. Langs that the certification of the union as the collective bargaining agent of the company's

473

employees was still effective, that it had not been challenged, that it was still operative, and that the people were engaging in concerted activities, the fact that they did not respond to such a letter on October 5th, did not legally affect the status of their employment with the company, and that he was legally obligated to bargaining on a contract covering those employees in addition to the ones that were then working in the plant.

Now, following a lengthy discussion on that point, at the end of which we came to no satisfactory conclusions, the question of proceeding to bargain on anything developed.

We suggested that the negotiations cover both the matter of a contract and the unsettled matters that had been presented to the company on the last occasion, on September 25th. Mr. Morley—or Mr. Langs, rather adamantly refused to proceed on any other basis, but a negotiation of the contract, and he reiterated the position which he advised us of on September 25th, that the contract having terminated, there was no basis or no responsibility on which negotiations could, should pursue with respect to those unsettled matters.

Now, in an attempt to get the negotiations under way, I told them that we weren't going to stick to any hard and fast procedural rule, that it was perfectly okay with us if we discussed a certain number of paragraphs in the agreement, and then, after having discussed a certain number of paragraphs

474

in the agreement for the purpose of negotiation, we would then take up whatever number of the unsettled matters could be agreed upon.

I believe that I at that time suggested that the ratio be

four paragraphs in the agreement to one of the unsettled matters.

Trial Examiner: What are the unsettled matters you refer to, a grievance?

The Witness: I refer to all of the seven matters we introduced on the last occasion, September 25th.

Q. (By Mr. Corenman) By the "seven matters", you mean the seven grievances?

A. Seven grievances, yes. Now, the meeting was short, as a meeting of that kind wouldn't be expected to be lengthy. I recall vividly we ate lunch shortly before lunch time, and the meeting had convened at ten a.m. The meeting broke up with Mr. Langs insisting upon negotiation of nothing but the contract, and adamant refusal to discuss anything relating to the grievance matters, and still adhering to his position that any contract, if negotiated, would apply only to the people in the plant, that remained in the plant when the strike began, and then only if our certification remained unchallenged.

Q. Now, will you state whether or not you had a later bargaining meeting with Mr. Langs, and if so, when?

475

A. I believe the next occasion on which the company and the union met was—

Q. October 29th?

A. 28th, 29th, it was around there, about that. I don't recall the exact date. We met in the offices of the Federal Conciliation Service, in the Federal Building in the City of Detroit, and in this meeting the conciliators and representatives of the State Mediation Service acted as intermediaries between the parties, we being in separate rooms for a great deal of the meeting.

The conciliators attempted to get this matter of what we would negotiate on resolved, and prior to calling us

together we were advised by the conciliators that the company was maintaining the position which it had taken in the meeting of October 4th, or October the 14th.

At that time I told the conciliators that if it was the ratio which I had suggested at the previous meeting, which was blocking any possibility of getting negotiations under way, that we wouldn't be squeamish about that ratio, that we would be willing to let the company name anything, any number of paragraphs they wanted to name; only we wanted it understood at some point along the line the negotiation of the unsettled grievances would pursue.

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476

The Witness: I believe I can cover it like this. The company brought the parties together—or the conciliators, rather—brought the parties together—advised us that there was no area for agreement on what could be negotiated, and on that basis adjourned the meeting.

Q. (By Mr. Corenman) You recollect what occurred at the September 14th meeting?

A. Yes, I have a good recollection of what happened at the September 14th meeting. That was the meeting—

Trial Examiner: Wait for a question.

Q. (By Mr. Corenman) Go ahead and relate what you recall about it.

A. On the occasion of that meeting, and at its very beginning, Mr. Langs objected to the presence of Harry Harsch, the president of the union, on the basis that he was considered as quit, or had been discharged along with the other buffers on the day of August 31st, and that he had no basis, therefore, to be in the meeting. Mr. Harsch had participated in all conferences associated with the negotiations up to that day.

Q. Do you recall what else occurred at that meeting?

Testimony of Bernard J. Young

A. Mr. Harsch remained in the meeting. I pointed out to Mr.

477

Langs that that would be dangerous for us under the circumstances prevailing at that time, to agree to the withdrawal of Mr. Harsch from the meeting, and I believe I told Mr. Langs, for the union, that we would consider Mr. Harsch's removal or absence from further meetings.

So I believe it was on the occasion of that meeting that I reiterated or re-presented a proposal with respect to arbitration, that I had first presented to the company in a meeting with Mr. Morley and the committee on September 1st. The essence of that proposal was that the company return the discharged buffers to work on an interim basis and let the question of their seniority, their continued employment and any back pay, be arbitrated.

On the occasion of the September 1st meeting Mr. Morley seemed to the union to be receptive to the offer, or the proposition.

We adjourned or recessed, I believe, at about eleven-thirty, until two o'clock. During the recess Mr. Morley was to contact his legal counsel, not Mr. Langs—Mr. Langs being in Colorado on a vacation—but some substitute counsel that he did not name, to see if there was anything in the proposition that I advanced in behalf of the union that should deter him from accepting it.

Trial Examiner: Are you talking now about September 1st or September 14th meeting?

478

The Witness: September 1st.

Q. (By Mr. Corenman) I think the last you are talking about is the September 1st meeting.

A. The September 1st meeting. When we returned at two o'clock—

Testimony of Bernard J. Young

Q. It is the previous meeting you are talking about now?

Trial Examiner: He started in with September 14th, and then ended up with September 1st.

Q. (By Mr. Corenman) Let's stay with the September 14th meeting.

A. On the September 14th meeting we re-presented our proposition of September 1st, and Mr. Langs advised us that was not acceptable, and then I proposed a "quickie" arbitration, I believe it was on the occasion of that meeting.

I suggested, in view of the circumstances, instead of going through the normal channels of bargaining or arbitration that goes through, the time element involved, that we arrange with the American Arbitration Association, through its Detroit office, for a quickie arbitration, and contact was made by me with the secretary of the Association, Mrs. Hirsh, in the City of Detroit, and I inquired as to the possibility of such an arbitration being arranged.

She said it was possible to arrange such an arbitration. That having been determined, she raised the question as to who would we accept as arbitrator, and I said because of the

time element I believed that both Mr. Langs and myself were agreeable to the appointment of an arbitrator by the Association, with one qualification; that the company would be entitled to make one exception or one exclusion from a possible appointment, and the union would be permitted to make one exclusion from a possible appointment.

We agreed to make such an exclusion, the exclusion of one individual, which was made by the union, at which point, when Mr. Langs proceeded to make his exclusions he said, "I want all of the long-haired boys excluded."

When Mr. Langs made that exclusion of a class rather

than an individual, the quickie arbitration possibility dissolved.

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480

Cross-examination

Q. (By Mr. Langs) * * *

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482

Q. Mr. Young, I show you Respondent's Exhibit 1(a), which is the agreement between the union and Knight Morley Corporation, and refer you to paragraph marked number 8, entitled, "Grievance Procedure". Are you familiar with that?

A. I believe so, yes.

Q. As a matter of fact, you helped negotiate that paragraph, isn't that right?

A. That's right.

Q. And you helped negotiate step five in that grievance procedure, known as paragraph 8?

A. That's correct, sir.

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483

Q. And step five is the proceedings for arbitration in the event an agreement is not reached under step four, is that right?

A. It's a proviso for permissive arbitration.

Q. In other words, if either party feels they want to go beyond step four, and are not satisfied with the outcome of step four, they may proceed under step five, is that correct?

A. If they are satisfied that the possibilities of resolving the grievance without arbitration have been reached.

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484

Q. Mr. Kelly identified certain written grievances with respect to Martha Ryan, Dorothy Cezik and Irene Musial which had been presented in writing, and upon which the answer of the company had been given.

Did you serve any notice upon the company in written form requesting the arbitration of those cases after September the 25th, or on September 25th, 1953?

* * * * * * *

A. No.

Q. Now, Mr. Kelly has testified in the case of Ambrose Puente and Helen Waite that no written grievance was filed. Now, I am asking you, Mr. Young, was there any grievance filed on September 25, 1953?

A. Not to my recollection.

Q. Was there ever any written grievance filed on these matters which I have just asked you about? Puente and Waite?

A. With respect to the Waite grievance, I believe I pointed

485

out that we weren't pressing for relief, but we were requesting relief. * * *

Q. Now, will you answer my question, and I will ask the reporter to read my question.

(Question read.)

Q. (By Mr. Langs) I would like to have an answer now.

A. Not as far as I know.

Q. Now, you have stated here on September 25th the question of overtime in the buffing room was not presented on a written grievance. Am I correct in that assumption of your testimony?

A. That's correct.

Q. And as a matter of fact, there was never any writ-

ten grievance filed on that matter at any time, is that correct?

A. That's correct.

Q. Now, with reference to the grievance pertaining to the employees in the buffing room on September 25, 1953, or prior thereto, actually on September 18th, a written grievance as to those employees in the buffing room had been filed with the company. That is correct, isn't it?

A. I believe so, yes.

Q. I show you General Counsel's Exhibit 24. That is the grievance, the written grievance that was filed with reference to the buffing room employees that walked out on August 31,

1953, is that correct.

A. That's correct.

Q. On September 25, 1953, did you file with the company any written request for arbitration of that grievance and the position which the company took as set forth on that grievance, pursuant to step five of the grievance procedure?

A. No, sir.

Q. Did you ever at any time file any written request with the company for arbitration of the grievances as set forth in General Counsel's Exhibit Number 24?

A. No, sir.

Q. Now, you have mentioned a piece work rate grievance which was in writing sometime around the end of 1952, and sometime around the first part of 1953, in January I believe you said. Am I correct on my recollection of your testimony?

A. Yes.

Q. Was any written request for arbitration of that grievance ever filed with the company?

A. There having been no negotiation on it, no.

Q. Will you answer my question? Was there any written request filed with the company for arbitration?

A. No.

Q. Under step five of the grievance procedure?

A. No.

Q. At any time?

487

A. At any time.

Q. Now, you have mentioned a three-cent annual improvement factor. As I recall your testimony, that was not presented as a grievance in writing. Am I correct in my recollection of your testimony?

A. That is correct.

Q. As a matter of fact, no written grievance with reference to that item was presented on September 25, 1953, or at any time, is that correct?

A. That is correct.

Q. Now, you have made the observation, Mr. Young, that at the meeting of September 25th, at some time during the meeting, on behalf of the company, that I withdrew the offers of compromise on certain grievances which were being considered at that time. Am I correct in that recollection of your testimony?

A. My recollection is that immediately upon your return from the recess you advised us that all proposals which had been advanced by the company were withdrawn.

Q. There had been proposals on the grievances which had been filed both by the union and by the company as a part of the negotiation, isn't that true?

A. With particular reference to the buffer grievance.

Q. Now, you just stated that I withdrew all proposals, in the plural. So I assume that you meant, and correctly so, that there were many proposals back and forth between the company and

488

the union on these grievances?

A. Your assumption isn't correct, Mr. Langs. I would like to point out, if I may, in answer to your question, that the negotiation of the grievances, with the exception of the buffer matter, was practically nil; that all of the discussions revolved around the buffing matter.

Q. Well, we take it at your word, then, on that basis. There was discussions, then, back and forth, of proposals and counter-proposals between the parties, with respect to negotiations?

A. With respect to arbitration.

Q. With respect to the grievances there was discussions, is that correct?

A. With respect to the buffer grievances, yes.

Q. There were proposals on the part of the company, and there were proposals on the part of the union?

A. That is correct.

Q. We never reached an agreement but at least we did offer counter proposals?

A. That's right, we did offer counter proposals.

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489

Q. (By Mr. Langs) You have indicated, Mr. Young, on October 5th you wrote a letter to me, asking that we meet and negotiate—that is October 5, 1953—that we meet and negotiate, and you stated that such a meeting was then arranged by the mediators. I believe I am correct in that being your testimony?

A. I think so, yes.

Q. As a matter of fact, isn't it true, Mr. Young, upon receipt of your letter of October 5th I immediately wrote a letter back to you, indicating I would be glad to meet with you at your request?

A. Yes, that's true.

Q. As a matter of fact, I have never refused to meet with you at your request at any time, isn't that true? Upon a date which would be mutually satisfactory to both of us?

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A. I believe that's so, yes.

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491

Q. (By Mr. Langs) Well, let me ask it this way, then, Mr. Young: In your testimony, I believe that you stated that there was a suggestion of arbitration, that the buffers be put back to work, and arbitrate back pay. I believe you made that statement just now on direct examination.

A. That isn't how I made the statement. I said the question of their continued employment, the question of seniority, and if the question of back pay was reviewed, then that would be

492

arbitrated too, if it wasn't moot.

Q. You inject a new word into this at this point, if it was reviewed or if it wasn't moot.

A. I think that is a natural accompaniment of the proposition itself. If the arbitrator ruled they were entitled to continue employment and seniority, then naturally the question of back pay would be adjunct to any arbitration, whereas if he ruled they weren't entitled to continuing employment, then naturally there wouldn't be any question of back pay.

Q. As a matter of fact, Mr. Young, at this particular meeting where we were attempting to negotiate some kind of an agreement, you, on the part of the union, wanted to have the employees put back and negotiate the back pay, and the company stated they would agree to putting the

buffers back without back pay, or in the event that you desired to arbitrate the whole matter, of course we would have no choice but to arbitrate the whole matter, including the return of the buffers and the back pay. Isn't that the position which the parties took?

A. You are not talking about the quickie arbitration proposal, are you? Because that had no strings attached.

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494

Q. (By Mr. Langs) What was the proposal of the union on September 14th, with reference to this question of the buffers?

A. Our proposal was that the people involved be placed back at work on an interim or temporary basis, pending arbitration of the matter of their continued employment, number one.

Number two, if their continued employment was favorably

495

ruled upon, their seniority; and thirdly, if the two previous points were favorably ruled upon, the question of their back pay for time lost.

Q. Now, what was the proposal of the company at that time?

A. As I recall it, no proposal was advanced by the company at that time, with respect to a compromise of the proposal which I just set forth. Then we proceeded into the question of a quickie arbitration.

Q. As a matter of fact, at that same time the company, didn't the company propose that the employees be put back to work without back pay?

A. I don't believe, Mr. Langs, that on that occasion they did. At least, my recollection is to the effect that they didn't.

Testimony of Bernard J. Young

Q. They never made that proposal?

A. Not to my recollection, not to my knowledge.

Q. Then if Mr. Kelly made that observation this morning, you wouldn't agree with it, is that correct?

Mr. Corenman: That is objected to as argumentative.

Trial Examiner: The objection is sustained.

Q. (By Mr. Langs) Do you recall the offer which I have indicated the company made, having been made at any time with respect to the buffers?

A. I recall an offer of that type being made, but which included the matter of Harry Harsch, leaving him out on a limb

496

until a specified date. I recall that sort of a proposal having been advanced by the company, but I am reasonably sure it was not on the occasion of September 14th.

Q. What do you recall as to that particular proposal by the company?

A. I recall that the company proposed that the people be brought back to work, with the exception of Harry Harsch, who would remain off for a couple of weeks, and that the question of back pay be eliminated from any further contention.

I believe that we indicated to the company at that time that we would consider that, providing the company would consider the arbitration of the back pay matter.

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497

Q. * * * Now, on September 14, 1953, when this quickie arbitration occurred, or the discussion about it occurred, that was on a Monday, if I am correct?

A. That is correct.

Q. And as a part of the discussion which we had at that time, you and I discussed it and the other members of the committee were present, Mr. Morley, Mr. Burnia

and Mr. Holmes, that we would try and set up an arbitration on Friday, September 18th, isn't that correct?

A. On Friday, September 18th, I believe that would be correct, because I think we were talking from the standpoint of a week's time.

Q. As a matter of fact, isn't it true that in the discussion which I had with the American Arbitration Association over the phone that I suggested to them that in selecting arbitrators that they get only those arbitrators who might be considered for Friday work, because we wanted this to be held on Friday,

498

isn't that right?

A. I believe it was understood that the appointment would be contingent upon this acceptance by the arbitrator appointed for the time element that we were allowing, yes.

Q. That was the discussion which I had with Mrs. Hirsh, is that right?

A. It may have been. I don't recall exactly. It may have been.

Q. And at that particular meeting, after we had informed her what we wanted, I indicated to you on behalf of the company that the arbitration proceeding would be all right providing you would catch up on the written matters, the grievances, and the proposition which was to be submitted to the arbitrator, that it would be set forth in writing, isn't that right?

A. Mr. Langs, I have no recollection of you setting that forth. However, I think it can be taken for granted if we had proceeded with that arbitration there certainly would have been a stipulation as to what would have been arbitrated.

Q. And as a matter of fact, you took the position during the discussion of this matter that you would not file

any written grievance about the buffers, and would not, therefore, have anything in writing for the arbitrator to consider, isn't that true?

A. I think it would have been ridiculous for me to have said that. No, I did not say that.

499

Q. Did you file a written grievance with reference to the buffers on September 14th, 1953?

A. I don't file the grievances for the union, Mr. Langs.

Q. Was a grievance filed?

A. That's for the local union.

Q. Was a grievance filed by the bargaining committee with the management on September 14, 1953?

A. I don't believe so.

Q. As a matter of fact, because of your refusal to permit the bargaining committee to file anything in writing, because of that, that the negotiations on the arbitration broke down, isn't that right?

A. Will you repeat that question, Mr. Langs?

Mr. Langs: The reporter will read it.

(Question read.)

The Witness: My answer is in two parts. Your mention of the word "refusal" requires an admission that I am not prepared to make, and there is no basis for me to make; and the matter of the grievance being written, to my recollection, was not a matter of contention on that particular day.

Q. (By Mr. Langs) Thereafter, Mr. Young, I called the American Arbitration Association, and informed them that there would be, we could reach no agreement on an arbitrator or an arbitration set up for the 18th of September, or the Friday which we had been previously talking about, isn't that

500

right? I called Mrs. Hirsh and told her.

A. According to the basis—

Trial Examiner: Witness, please. Was it right or wasn't it?

The Witness: No.

Q. (By Mr. Langs) I didn't call?

A. You did call, yes. You did call.

Q. As a matter of fact, you will recall, right in your presence in the room in which we were bargaining in?

A. I don't agree with what you related.

Trial Examiner: Is it right that he called in the same room?

The Witness: Yes, he called in the same room, across the desk from me.

Mr. Langs: Just one moment.

Q. (By Mr. Langs) Mr. Young, do you remember an arbitration case in 1952, March of 1952, or thereabouts, in which the union requested, on a question of vacation pay, with respect to Herschell Hill, Pearl M. Boyd and James Whittaker?

A. Mr. Langs, at that particular time I was—

Trial Examiner: Just a minute. Do you recall it or not?

The Witness: No.

Q. (By Mr. Langs) Was there any arbitration proceedings ever requested by the union under this contract?

501

A. I believe there was one.

Q. And that matter was processed through the regular arbitration procedure of the American Arbitration Association?

A. According to my understanding, yes.

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Testimony of Bernard J. Young

502

Recross-examination

Q. (By Mr. Langs) Mr. Young on this last point which has been raised by Mr. Corenman, reference to these grievances which were in written form on September 25, 1953, the position of the company with reference to each of those grievances was attached to each of those grievances, isn't that correct?

A. To the written grievances?

Q. Yes.

A. Yes.

Q. In other words, the position of the company was made known to the bargaining committee with reference to those written grievances?

A. Yes.

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504

TRANSCRIPT OF TESTIMONY

August 5, 1954

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508

CHARLES E. MORLEY, a witness called by and on behalf of the General Counsel, having been previously duly sworn, was examined and testified further as follows:

Redirect Examination

Q. (By Mr. Corenman) * * *

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517

Q. Do you know what the capacity of the blower system is in cubic feet per minute?

A. I think it is seventeen thousand five hundred cubic feet a minute.

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528

Trial Examiner: Mr. Langs referred to Exhibit 27 by directing your attention to the windows along the entire side and end of this group shown in the photograph.

Can you tell us approximately, or exactly, if you can,

529

what the length of the room and the width of the room is?

The Witness: I can't say, exactly. However, it is my impression that room is approximately twenty-five feet wide, and I would say approximately seventy-five or eighty foot long.

Trial Examiner: What is known as the buffing room.

Mr. Langs: Did you measure it?

Mr. Corenman: Yes, we measured it Saturday, and our measurements show the room is twenty-four and a half feet wide, and eighty foot long.

The Witness: That is very close to what I would think

it would be, and the height, I think, of the room—

Mr. Corenman: We figured it was twelve feet high.

The Witness: I believe it is twelve feet high, and the windows occupy approximately half of that area.

Q. (By Mr. Corenman) Now, directing your attention to General Counsel's Exhibit Number 27, you will notice underneath the windows, alongside the north wall, runs a pipe. Is that a steam pipe that there has been some testimony about?

A. Well, again, I can't say what one witness was referring to here. He referred to a steam pipe which went under the floor. There is no steam pipe, to my knowledge, that goes under the floor.

The pipe to which you are referring is a condensate return pipe that comes back. It returns approximately right ahead of

530

the door that is located—although it doesn't show here, on this wall—goes down and goes under the floor.

It is located, I would say offhand, maybe approximately eight inches under the floor, where it goes under the floor, and goes across at right angles to the boiler room.

Trial Examiner: The pipe to which the witness has been referring is a pipe on the left-hand side of the photograph, running along the wall just about, or a little below, the base of the window.

May I ask you, referring to the roof, there is a girder across at the top of the photograph, approximately an inch and a half from the top of the photograph. Is that a flat roof?

The Witness: It is a flat roof. It pitches towards the center of the building. In other words, the entire building has a flat roof which is higher on the outside edges and pitches towards the center where the drains are located.

Trial Examiner: Of what material is this roof?

The Witness: That roof is, I think, what they call a gypsum—it is a gypsum roof.

Mr. Langs: Poured gypsum?

The Witness: It is a gypsum roof. There is originally an insulation material put up, a half or three-quarters of an inch thick, and there are two or three inches of gypsum poured

531

over the top of that, a plaster, and then on top of that is tar paper, four or five layers of tar paper, all tied in together, and on top of that is gravel.

Trial Examiner: And the insulating material is underneath, inside?

The Witness: The insulating material is put at the bottom. In other words, you can see a series by looking very closely, very small iron—what they are, actually, is angle iron pieces, and this insulating material was originally laid between those and supported by them, and then the tar is poured into a solid roof above.

Trial Examiner: Thank you.

Mr. Langs: Mr. Morley, this condensate return pipe, will you define that a little more? Is that always steam or water?

The Witness: It will always be water. The way our heating system works in this plant, steam is—it is a steam system which goes from the boiler to the various heating units, and it is condensed there and goes to pumps which are located in the floor, or on the floor back in various stations around the plant, and the steam condensates—condenses, rather—and becomes water, and when it gets to a certain volume, it trips an electrical switch which starts the pump and the pump pushes the water up in the air and into a condensate return line, and it flows more or less by gravity back

532

to the boiler room, and then there is another lift pump back in the boiler room, which—when a sufficient quantity of water has been pushed back—starts working and pumps the water up into the boiler, itself, as it returns.

Trial Examiner: Do you use steam for power?

The Witness: No, we use steam for heating only.

Trial Examiner: That's what I thought. Would you have any occasion to use that pipe, that steam condensate return pipe, in the summertime?

The Witness: Yes, we use steam for heating our plating plant, and the boiler consequently runs in that plant the year 'round.

Mr. Langs: In other words, the water coming back through this particular line which has been described by the Examiner on Exhibit 27 would be water after it has lain at some point in the plant for a while, until it accumulates?

The Witness: That's right.

Mr. Langs: Then it would be pumped up here and returned back to the boiler room?

The Witness: That's right.

Mr. Langs: So at this point, then, this water certainly would have no temperature near any steam at all?

The Witness: No.

Mr. Langs: It would be water that had been cooled down substantially?

533

The Witness: Yes, it would have been cooled down before it was returned back.

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534

Mr. Langs: So the south wall, then, of the buffing room is represented first by a large opening, how wide?

The Witness: Oh, possibly—I don't know again, exactly, but I would judge it might be anywhere from fifteen to twenty feet.

535

Mr. Langs: And that is on the far west end of the south wall of the buffing room?

The Witness: Yes.

Mr. Langs: Next comes twenty-five feet, approximately, of the boiler room?

The Witness: Yes.

Mr. Langs: Then approximately twelve-foot door?

The Witness: Yes.

Mr. Langs: And the balance is the wall between the buffing room and the garage?

The Witness: Yes.

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542

DOCTOR WILLIAM FREDRICK, a witness called by and on behalf of the General Counsel, being first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Corenman) Dr. Fredrick, your full name is Dr. William Fredrick, is that right?

A. Yes.

Q. What is your home address, Doctor?

A. 18266 Marlow Avenue, Detroit.

Q. What is your business or profession?

A. I am in the profession of industrial hygiene.

Q. How long have you been employed in that profession?

A. Since 1936.

Trial Examiner: Are you a Doctor of Medicine?

Testimony of Doctor William Fredrick

The Witness: No, I am a Doctor of Science.

Q. (By Mr. Coreuman) Are you a graduate of any chool or university?

A. I am a graduate of the University of Michigan.

Q. What year did you graduate?

A. I graduated in 1936, with a Doctor of Science degree.

Q. And you have been employed as an industriai ıygienist

543

since 1936, is that right?

A. Yes.

Q. Now, are you a member of any professional societies?

A. Yes.

Q. Will you please enumerate some of the societies of which you are a member?

A. I am a member and past officer of the Ame.ıcan Industrial Hygiene Association. I am a fellow of the American Public Health Association, and past president of its Industrial Hygiene section. I am a member and past president of the Michigan Industrial Hygiene Society. I am a member of the American Chemical Society, the American Association for the advancement of Science, the Association of Analytical Chemists, and the Engineering Society of Detroit.

Q. In your professional work will you state whether or not you have authored any scientific papers in connection with industrial hygiene?

A. Yes, sir, I am the author of several technical papers which have been published in professional technical journals.

Q. Now, currently what position do you hold?

A. Currently I am director of the Bureau of Industrial

Hygiene of the Detroit Department of Health, and am a resident lecturer in industrial health in the School of Public Health at the University of Michigan, and an instructor in industrial health at the Wayne University College of Medicine.

544

Q. For how long a period have you been engaged as Director of the Bureau of Industrial Hygiene for the City of Detroit?

A. 1946, since then.

Q. Will you state to us briefly what your duties and responsibilities are as Director of the Bureau of Industrial Hygiene for the City of Detroit?

A. My responsibilities and duties are to insure that work places are healthful; will not, because of stresses found within the work place, produce injury to health or occupational disease.

Q. Doctor Fredrick, can you define for us what industrial hygiene is, or tell us what an industrial hygienist does?

A. Industrial hygiene is the science and art of insuring healthful conditions of work, and the prevention of occupational diseases or injury to health arising out of work.

It might be better to amplify somewhat and explain just how the industrial hygienist accomplishes these results.

First, he must be capable of recognizing, in any work place, those environmental stresses or factors which might produce injury to health or cause disease among the workers who are exposed to these stresses, and he must understand the effect of those stresses upon the human body, and upon human health.

Secondly, he must be capable of evaluating the magni-

tude of these stresses so that he is in a position to determine whether they do, in fact, cause damage to health because of

545

their magnitude or intensity in this particular work place, as they are experienced by the worker.

Third, if he discovers that the environmental stresses are of sufficient magnitude to cause impairment of health, then he must be in a position to recommend adequate controls or changes in this occupational environment so there will not be damage or injury to the health of the workers.

Q. Doctor, I hand you four photographs which have been identified in these proceedings as General Counsel's Exhibits 25, 26, 27 and 28, and which represent photographs of the buffing and polishing room of the Knight Morley Corporation at Richmond, Michigan,—and I will ask you to examine those photographs, and ask you whether or not you are generally familiar with the type of work done in buffing and polishing rooms?

A. These photographs appear to represent a room used for buffing and polishing of metals. The equipment therein seems to be that customarily used for the purpose.

I am experienced, from the industrial hygiene point of view, with the operation of buffing and polishing.

Q. Now, are you familiar with the normal methods of ventilating a buffing and polishing room?

A. Yes, sir.

Q. Will you state what the normal accepted method is of ventilating such a room?

546

A. Buffing and polishing operations must be ventilated by what is called specific or local exhaust ventilation applied directly to the buffing or polishing wheel, as opposed to general or non-specific ventilation.

Each buffing wheel must be enclosed in a hood, a hood which encloses as much of the wheel as is possible, and appropriate ventilation must be that applied to each wheel, to the hood of each wheel.

The quantity of ventilation which must be applied to the hood of the wheel depends, in part, upon the extent of enclosure of a wheel. For example, the ventilation required for a wheel that would be only one half enclosed in the hood would be substantially larger than the ventilation required for a hood which had two-thirds of its effective area enclosed in the hood.

In any event, a sufficient amount of air must be exhausted from the hood to provide an effective capture velocity for the fine particles of dust and the solid material which is discharged into the air from the periphery of the wheel at the time it is in operation. The reason for this is that the respiration or inhalation of fine particles of dust in excessive amounts is unhealthful.

For this reason, all buffing and polishing operations are required, by law and regulation, to have an adequate amount of local exhaust ventilation to prevent the contamination of the

respirable air in the work room with excessive particles of dust and matter.

Q. Doctor, in the particular plant in question in this case, there is testimony that the means of exhausting the air from the room to the ventilating system is a system of pipes connected to the hoods of the individual jacks which lead to—through a main blower pipe to the cyclo-wash which you see in General Counsel's Exhibit Number 25, wherein the solid particles are washed out of the air, and the air then propelled upwards to the roof, and exhausted by a paddle wheel type of fan enclosed in a housing.

Testimony of Doctor William Fredrick

The testimony further shows in this case that the dimensions of the buffing room in question are approximately eighty foot long, twenty-five foot wide, and twelve foot high, and I will ask you—and furthermore, that the maximum capacity of the fan is thirteen thousand five hundred cubic feet per minute. I will ask you whether, on the basis of those figures which I have given to you, if you, can determine the number of air changes per hour that are taken out of the buffing room by the ventilating system?

A. Yes, that would be possible. Approximately—at those dimensions, approximately thirty-five air changes per hour.

Q. I will ask you whether or not you have an opinion as to whether or not the number of air changes which you have computed are adequate or not?

548

Mr. Langs: Just a moment. I don't believe that that is a proper hypothesis in this particular case for this type of a question, and before he answers this question I would like to ask the witness one or two questions which I think are important before any proper answer, such as he has been asked to give, can be given.

Mr. Corenman: I have no objection to Mr. Langs' asking some further questions.

Mr. Langs: When you refer to thirty-five times per hour change in a room of this size, that is considering a room enclosed with walls or windows or what have you, is that right?

The Witness: An enclosed space.

Mr. Langs: If half of the wall was open to the outside, and large doors were open, and other fans were blowing in this area, would that affect the answer which you have just given?

The Witness: Not if this is a well-defined space. The exhaust system, as stated to me, as removing from this space thirteen thousand five hundred cubic feet of air per minute, and the air which is removed from the space with the exhaust fan must be supplied from some source. The supply air from this source presumably will come from the openings into this room, wherever the openings may be. They may be windows which are open, or areas which are open to other portions of the plant, but we do have to maintain a balance. We cannot exhaust

more air than comes into the room, nor can we put more air into the room than goes out of it.

Mr. Langs: Would another large fan blowing in this room have any effect on it?

The Witness: As far as changing the air?

Mr. Langs: Yes.

The Witness: Not unless it was so arranged it would exhaust its air directly out of doors, or take air out of doors and, in positive fashion, pump it into the room.

Mr. Langs: If that took place, it would affect your decision, then. Right?

The Witness: If a fan was located in a wall and pumped air directly into a room or pumped air directly out of a room, in a positive fashion, that would, of course, increase the rate of air change.

Q. (By Mr. Corenman) Now, I will ask you this question: If you have an opinion as to whether or not your determination of thirty-five air changes per hour is considered adequate?

A. That is secondary to the primary problem of ventilation in a buffing and polishing room. The primary consideration is to remove the dust, at point of generation, from the room; prevent contamination of the room air with

dust. That is a problem in specific ventilation, and so we are more concerned with the quantity of air which is entering the hood of the buffing or polishing wheel.

550

Now, I do not have enough information available to me to offer an opinion. I do not know the number of wheels which were in operation in this room. I know the total amount of air which is being exhausted by the ventilation system on the grinding wheel, but I do not know the number of grinding wheels and hoods located in this room which are in operation.

Q. Well, there is testimony there are ten buffing jacks in the room, with two wheels on each buffing jack. There are also three rotary automatics in the room, with three outlets on each rotary automatic. There is further testimony that the pipes leading from each buffing wheel on the individual jacks are approximately four to five inch pipes.

I will ask you, on the basis of that further information, whether you can give an opinion?

A. Are these pieces of automatic buffing aquipment directly connected to the exhaust system, or are they normally closed off by means of a damper or baffle?

Q. No, these three rotary automatics to which I have made reference are directly connected to the blower system. Now, there is a straight-line automatic which, on the day in question, was actually closed off from the blower system by a baffle plate or a damper.

A. Referring to a photograph of a buffing jack, I am examining—I do not know the exhibit number—

The Trial Examiner: The witness is referring to General

551

Counsel's Exhibit Number 26.

The Witness: In respect to the hood enclosure, I cannot tell for sure. It appears that the hood encloses approxi-

mately fifty per cent of the wheel. Referring to the requirements for ventilation of polishing and buffing wheels, wheels having a diameter between nine inches and sixteen inches, which apparently represent the diameter of the wheels shown here in Exhibit Number 26, for a hood enclosure where not more than twenty-five per cent of the wheel's periphery or sides are exposed, a ventilation rate of five hundred cubic feet per minute per wheel would be required.

If the hood enclosure or the wheel enclosure were poor, that is, it involved more than twenty-five per cent—less than twenty-five per cent—then the ventilation requirements for such a wheel would be seven hundred fifty cubic feet a minute.

It would appear from the information which has been given to me, that, not allowing for ventilation of these automatic pieces of equipment which you have described, there would be—assuming uniform distribution of the air being exhausted—an exhaust rate of six hundred seventy-five cubic feet a minute per wheel.

I do not know what percentage of the total air exhausted was used on the automatic machines. This would tend to reduce the amount of ventilation per grinding wheel. However, we

552

would not consider these grinding wheels to be grossly under-ventilated. One would reasonably expect a ventilation rate of the order of magnitude herein indicated as doing an effective job of removing fine dust particles from the room.

Mr. Corenman: Now, I will ask the reporter to mark for identification as General Counsel's Exhibit Number 29 a document entitled "Bureau of Industrial Hygiene, Detroit Department of Health, Polishing and Buffing Wheels."

Testimony of Doctor William Fredrick

(Thereupon, the document above referred to was marked General Counsel's Ehibit No. 29 for identification.)

Q. (By Mr. Corenman) I will now hand you General Counsel's Exhibit 29, and ask you if you know what that is.

A. Yes. I recognize this as being an information sheet which states the regulations of the Detroit Department of Health for the Ventilation of Polishing and Buffing Wheels.

Mr. Corenman: We offer into evidence General Counsel's Exhibit Number 29.

Mr. Langs: Doctor, this refers, General Counsel's Exhibit 29, this exhibit has at the heading of it, "Bureau of Industrial Hygiene, Detroit Department of Health." I believe that's correct?

The Witness: Yes, sir.

Mr. Langs: Does the Detroit Department of Health have any control over operations in any plant at Richmond, Michigan?

553

The Witness: No, sir. I might comment that the regulations of the Detroit Department of Health are the same as the regulations of the Michigan Department of Health, with respect to the ventilation of polishing and buffing wheels.

Mr. Langs: Does this information in the exact form which is set forth on General Counsel's Exhibit 29, in its exact form, appear in any statutory law?

The Witness: No.

Mr. Langs: I object to the admission of General Counsel's Exhibit Number 29.

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554

Trial Examiner: Before I rule on the admissibility of

this proposed exhibit, I would like the witness to explain, if you will, please, what is meant by "normal standards", when you come up with a result which you label "normal standards." How is that arrived at?

The Witness: It has been arrived at by engineering research and experiment, and it has been demonstrated that in polishing and buffing operations under the conditions described in the table that ventilation in the quantities specified yield adequate control of dust.

These, by use, are not subject to opinion. They are values of fact, and are in concordant use throughout the United States.

The Ventilation Committee of the American Conference of Governmental Industrial Hygienists have, in their recommended values of ventilation for polishing and buffing wheels, values which are similar, if not identical, to the ones which are listed in this table.

In other words, these figures are not unique to the City of Detroit, but are in general use for engineering control purposes in industrial hygiene throughout the United States.

Trial Examiner: When you use the words "Normal standard." how much lee-way does that give, both plus and minus? I don't

555

believe perhaps I have made myself clear.

The Witness: I think I understand.

Trial Examiner: When we take a normal standard then there are, as I see it, in arriving at any normal term, there are variances, possible variances, either on the plus side or the minus side, which will still keep it within the orbit of normality. Do I make myself clear?

The Witness: Right, sir.

Trial Examiner: What is the tolerance there, so to

speak?

The Witness: The tolerance will not exceed plus or minus twenty per cent. Now, I should point out that this ventilation, degree of ventilation, presumes that there is no extra or unusually poisonous material in the dust. If the buffing or polishing were to be done on a poisonous material such as on that contains substantial quantities of lead or of cadmium or of beryllium, then these ventilation rates would not be considered adequate.

These are intended simply for protecting the worker from taking into his lungs an excessive quantity of dust.

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560

Mr. Langs: Is there any power given or is there any statement in the statute pertaining to the Department of Labor which establishes the rate of exhaust for polishing and buffing?

The Witness: To the best of my recollection, there is no figure which establishes the rate of exhaust or the quantity of air to be exhausted at grinding wheels in the statutes of the Department of Labor.

If I recall correctly, there is a provision for—which specifies the size of the branch duct which connects to the grinding wheel. There is a value which specifies a minimum velocity of air which travels through the duct system, and there is also a specification in respect to total suction, total static suction, in terms of inches of water which must be applied to the branch duct leading directly from the grinding wheel, but to the best of my recollection there is no specification of

561

volume of air which must be exhausted. * * *

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Testimony of Doctor William Fredrick

563

Trial Examiner: Doctor, to what extent are the City of Detroit health regulations in this regard, and the State of Michigan regulations in this regard, similar or dissimilar? By that I mean is one jurisdiction stricter or does it have higher standards than the other, or are they about the same, or have you any opinion on that?

The Witness: To the best of my knowledge they are about the same. Every attempt has been made to reconcile the regulations of the State Department of Health and of the Detroit Department of Health, and, to the best of my opinion, there are no substantial differences.

Trial Examiner: Have you ever been employed by the State of Michigan in this capacity or a similar capacity?

The Witness: For a period of two years I acted in this capacity for the State of Michigan, although I was technically under the employ of the City of Detroit, but part of the

564

moneys for the operation of this industrial hygiene activity in the Department of Health came by a direct grant from the Michigan Department of Health.

So, from a money standpoint part of the operation and part of my salary came from the State of Michigan during those two years' time that I worked for the State of Michigan.

Trial Exmainer: During those two years' time did you do any work outside of the City of Detroit?

The Witness: Yes.

Trial Examiner: Now, that leads up to this question of mine. Is it of any importance, in arriving at health standards, whether a plant is situated right in the City of Detroit, let's say the heart of the city, or whether it is situated in an open, rural area?

The Witness: No, sir.

Testimony of Doctor William Fredrick

Trial Examiner: The important factor, as I understand it, then, from your testimony, is whether or not it is in an enclosed area?

The Witness: Correct.

Trial Examiner: Doctor, I would like to ask you one or two more questions before I rule on the offer of the exhibit. How long has the information contained on this proposed exhibit been in force? Now, by that I mean so—for my own education on the matter—does this information vary from time to time? Is it changed every year, every two years? Is

565

it a variable, in other words, depending upon current experience, since the last paper was issued, let us say?

The Witness: Of course such a document would be subject to change if experience indicated that it was in error, and did not adequately protect the men who work on polishing and buffing wheels. As a matter of fact, these values have been in use for several years. Sir, I don't know whether I am permitted to clarify the inner relationship between the Michigan Department of Labor and the Michigan Department of Health, which has been introduced here. I would be glad to do so if that would be permissible.

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566

Trial Examiner: If there was any question as to whether or not the respondent was complying with certain standards set up by the City of Detroit, most certainly that evidence could not come into this case, because it is another jurisdiction, the same way as if the rules and regulations of the San Francisco Department were offered in evidence, but in this case I shall receive this exhibit in evidence, pointing out particularly that it has no application as far as any particular jurisdiction of the City of Detroit is con-

cerned, but solely, as pointed out by the witness, that this proposed exhibit does contain a certain information which is more or less common knowledge from an engineering viewpoint, and on his further statement that it is substantially the same as promulgated by the State of Michigan.

General Counsel's Exhibit Number 29 is received in evidence.

(The document heretofore marked General Counsel's Exhibit No. 29 for identification was received in evidence.)

Q. (By Mr. Corenman) Now, I believe in answer to a previous question, Doctor, you stated that in your opinion under the conditions existing in this plant that at each wheel enclosure

567

there was a volume of air exhausted of how many cubic feet per minute?

A. I cannot give you a precise figure because I do not know the quantity of air which was exhausted by the automatic equipment. I did make the statement that I believe the quantity of air which would be exhausted at each hood would be sufficient to prevent excessive contamination of the work room air with fine dust is based on the information which you have given me a total exhaust capacity of thirteen thousand five hundred.

Q. There is testimony in the record, Doctor, that on August 31, 1953 the exhaust fan which is described as a paddle wheel type of exhaust fan situated in a housing on the roof of the plant immediately over the cyclo-wash referred to in General Counsel's Exhibit Number 25,—there has been testimony that on that day the paddle wheel fan was running in reverse.

Mr. Langs: I object to that. There is no information

here it was running in reverse.

Mr. Corenman: Mr. Examiner,—

Trial Examiner: Ask your question, please, subject to the facts showing in the record. Assume that .

Q. (By Mr. Corenman) Assume that. Assuming the fan was running in reverse on August 31st—or on any other day, for the matter—assume a fan is running in reverse, a paddle wheel type of fan. Do you have an opinion as to whether or not

568

that interferes with the efficiency of the blower system?

A. The operation of a paddle wheel, centrifugal type, fan in a direction reversed to that of its intended operation would substantially reduce the air exhausting capacity or efficiency of the fan.

It would be reasonable to expect a reduction of efficiency to twenty or thirty per cent of its normal capacity, and in my own personal experience I have sometimes seen the pumping efficiency reduced to virtually zero, because of reversed direction, perhaps five to ten per cent. I shouldn't say zero. There is always some air goes through the system, but it may be reduced to very low values.

Q. In other words, stating it in other words, where the fan is reversed there is a loss of efficiency varying from seventy to eighty per cent or greater, is that correct?

A. Yes, sir.

Q. And what, in your opinion, if you have any, would be the virtual efficiency or effectiveness of such a blower system in lifting the fine particles and removing them out of the room?

A. At that low a ventilation rate its effectiveness in removal of fine particles from the room would be reduced to nearly zero. This comes about because of the peculiar dynamics of collection of particles, the rotation of the

wheel is throwing fine particles of material from the metal being buffed, and

569

the wheel itself, and by centrifugal force is attempting to throw these or project these particles out into the room.

A sufficient velocity of air must be interposed counter-flow to the position of these particles to capture them, to reverse their direction and carry them back into the hood. If the velocity is not sufficiently great to accomplish this reversal, there will be no capture of the fine dust particles.

In other words, local exhaust ventilation in a situation as is experienced in a polishing and buffing operation is essentially a go, no go, affair, if I may use the terminology. Either there is sufficient velocity to capture the particles or there is insufficient velocity to capture hardly any of them, so that is why I state it is my opinion that if this fan were operated in the reverse direction from that intended by the manufacturer there would be practically no collection of fine particles of dust.

Q. Now, Doctor, do you have any opinion as to whether or not the contamination of workers by such dust particles from the buffing operation such as this contamination on their bodies, and by breathing in, is productive of ill health?

Mr. Langs: Just a moment. I object to that question. I do not believe this witness—not being a medical man—is qualified to testify to that.

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570

Trial Examiner: You may lay a foundation, if you wish, without it being conditioned upon the fact whether the Trial Examiner has any questions. I suggest you lay whatever foundation you wish.

Q. (By Mr. Corenman) Doctor Fredrick, in your work

as an industrial hygienist are you trained by study and experience to know whether or not conditions of ill health result from industrial hazards, and if so, the nature of such conditions?

Mr. Langs: I object to that question as calling for this man's conclusion, and not a proper question at all.

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571

Tral Examiner: The objection is overruled.

Mr. Corenman: You may answer.

The Witness: I am.

Q. (By Mr. Corenman) I will now ask you again, Doctor, whether or not you have an opinion as to whether or not the contamination of workers from the abrasives and dirt and dust from the buffing and polishing operations are conducive to disease?

A. I have an opinion.

Q. Will you state your opinion, please?

A. Excessive exposure to the dust, vapors and particulate matters of the polishing and buffing operations for periods of short duration may produce irritations of the nose and of the throat, sore throat and coughing, and subjective complaints of that type.

Prolonged exposure, by prolonged exposure over a period of years to the dust and buffing and polishing operations will produce disease of the lung, changes in the lung which will be detrimental to the health of the worker. If the material which is being braided into the air in this operation is of a type that will result in the lung tissue and enter the blood stream and produce a toxic reaction such as lead, cadmium and beryllium, then an acute illness of a serious nature may appear in a very short

572

period of time.

Testimony of Doctor William Fredrick

So we have to classify the nature of the effect upon the worker in respect to the details of the exposure. Is it of a short duration or are we considering a long duration of exposure? For a short duration of exposure to materials of low toxicity the problem is purely one of irritation of the upper respiratory apparatus.

If we are dealing with long duration, then there is the problem of—systemic problem of breathing the chemical into the body. If we are concerned with a long-time experience of the man, there is then opportunity for changes to actually take place in the lung as a result of exposure, even though it may not be immediately toxic or poisonous to the worker.

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573

Q. (By Mr. Corenman) Now, Doctor, there has been testimony in the case that abrasives such as Tripoli are used in the polishing, or used in the buffing operations. I will ask you whether or not Tripoli is capable of producing any disease, the inhalation of Tripoli?

A. The inhalation of Tripoli will produce changes in the structure of the lung which interfere with its ability to transfer the oxygen of the air to the blood stream in a slow, chronic fashion.

This change requires a long period of time to take place.

Q. Now, doctor, in your position as Director of—in your work as an industrial hygienist, do you know whether or not workers in the buffing and polishing trades are educated to the fact that it is to their health interest to work with properly ventilated blower systems?

A. I so believe such to be the case.

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576

Trial Examiner: I don't necessarily agree you require

an expert witness to give testimony on what will reflect on the good faith or bona fide belief of workmen, or a workman, as to whether or not his health is endangered, but subject to objection from counsel, I would like to ask the witness if he has any opinion on the problem, as I described it, in this particular situation, assuming that on one day—and this is subject to connection in the record—first, that there was

577

no ventilation, and then if anybody wants to take it from there as to whether it was fifty per cent reduced, or otherwise—but assuming that there was no ventilation, from your experience and study in the field, have you an opinion?

The Witness: In respect to the hazard, the actual hazard rather than the imagined hazard to the worker?

Trial Examiner: Yes, because those factors are involved in this case. First, whether there was an actual danger to the health, and the worker recognized it. Secondly, whether there was no actual danger to the health, but the worker thought there was. And next, that there—well, I guess that that about covers it. You can have a situation in (a) where there was an actual hazard to health, and (b) where there was—

Mr. Corenman: There was a hazard, and a belief there was a hazard.

Trial Examiner: —a belief that there was a hazard, but let's keep aside the subjective element in here as to what the workers may have thought. Let's take it from the objective standpoint.

The Witness: I will attempt to answer the question. Assuming—which I believe to be the case—that the ventilation rates had been reduced to very low values due to the reversed operations of the fan—

Trial Examiner: Let's assume first there wasn't any

ventilation. This is a hypothetical question.

578

The Witness: We will assume the ventilation had been reduced to zero, and we will further assume that, on the basis of the information which has been given to me here today, and my own knowledge about materials, that the objects being buffed in this buffing room were those usual to this particular type of operation, and it did not contain any of the extremely dangerous materials, which is the expectable condition.

Mr. Langs: They were non-toxic. There is no question about that.

The Witness: Then with respect to the exposure to the particulate matter in the air, there is no immediate danger to the health of these buffers.

In other words, the dust that was being produced by this particular kind of buffing under conditions of no ventilation would not place the workers' health in immediate peril because of the inhalation of dust.

Q. (By Mr. Corenman) Do you have an opinion as to whether it would cause some discomfort such as local respiratory irritations?

A. I believe it would be quite probable there would be some minor irritations of the nose and throat. That would be expected.

Trial Examiner: Would that reaction be disabling to any extent?

The Witness: It would be very uncomfortable, as a sore

579

throat is uncomfortable or a sore nose, but perhaps in acute form would be no different than that experienced in the case of a head cold or a typical normal sore throat.

It certainly would not place the person's health or life in dire peril.

Testimony of Doctor William Fredrick

Trial Examiner: What about ability to work? Would there be any disability?

The Witness: I do not believe that the extent of soreness of throat or irritation of the nasal passages would normally be sufficiently severe to physically prevent the individual from working.

The only exception would be in the case of those workers who were subject to asthma or an allergy type of response. It is possible an excessive amount of dust would produce a typical allergy reaction which might make it impossible for them to continue work due to shortness of breath or redness of eyes, or such a thing, but that would be applicable to a particular individual in this group of workers.

Q. (By Mr. Corenman) Now, Doctor, in your work as an industrial hygienist, have you in your experience in similar situations where you have found the fan running in reverse, have you encountered those?

A. It is a fairly frequent occurrence, to have this sort of a situation develop in connection with the operation of centrifugal fans.

580

Q. Is it a matter which can be remedied in a very short time?

A. Yes, it is a very simple matter to detect it if the condition exists, and it is a very simple matter to remedy it.

Q. And the remedy is just to reverse the wires on the box, is that correct?

A. Normally that is the cause of the trouble to begin with. The motor was connected incorrectly to the electrical circuit, and the alternation of these will reverse the direction of the motor. That will apply to substantially most of the situations where a centrifugal fan is found to be operating in reverse direction.

Q. Are you able to enlighten us why the reversal of the

fan results in a seventy to eighty per cent loss of efficiency?

A. I will attempt to make an explanation. An ordinary propeller type of fan or screw type of fan which we encounter in the ordinary electric fan such as located in the room is such as operate in a free space.

If the fan operates in one direction, the flow of air is forward, and if it is operated in the reverse direction, in reverse, it is backward, and the quality of air involved is substantially the same.

However, in the case of centrifugal fans, the paddle wheel being one type, the air-activating mechanism is completely enclosed in a housing. A point of inlet is provided at the side of the circular housing, and a point of exit of the air

is provided along the periphery of the housing, and the air is induced to flow through the device by converting electrical energy to centrifugal force on the area.

Now, the paddle, when it operates in a direction such as this, will induce the air to come in the side entrance, and then assume a rotary position, and then it leaves the fan on a path centripetal to the circumference of the circle which describes the half housing. That provides good air dynamic flow. The air can get out of there in good fashion. It is smooth streamlining, and the air does not get into unusual turbulency in getting out, but if one reverses the direction of this paddle, now the air cannot leave at a direction centripetal to the circle described by the housing or the fan, and it experiences considerable difficulty in getting out, and most of the energy, the electrical energy being supplied to the motor of the fan, is being converted to creating the turbulence within the housing, and heating the air up within the housing, and accordingly, the efficiency of the device is reduced although it still will exhaust its air

in a positive direction.

Such air as it does exhaust it will exhaust in a positive direction. It can go no other way.

Q. Now, I believe you testified previously this morning that in your opinion with an exhaust system of thirteen thousand five hundred cubic feet per minute maximum capacity, and giving you

582

dimensions of the room, that there was a—in your opinion, there were air changes, and you determine air changes of thirty-five air changes per hour, is that correct?

A. Providing I did not make an arithmatical error, subject to any error in calculations, that is the figure I arrived at.

Q. Now, with the blower system reduced from seventy to eighty per cent in efficiency, what would be the number of air changes per hour in the room?

A. In that case the number of air changes per hour might be as low as six or seven. Perhaps as low as five. it would be substantially reduced, the total air change in the room.

Q. Do you have an opinion as to whether or not those number of air changes are adequate from a temperature and ventilating standpoint in the room?

A. For a room of these dimensions, which is relatively small, it would be necessary to achieve a rather substantial amount of ventilation. Normally that can be achieved without any special effort at all. It is achieved as a by-product of the specific local exhaust ventilation which is necessary to be applied to the buffing and polishing wheels to prevent the dust from getting out into the room air.

The general air changes, the changes of air in this room, come about naturally as a by-product of these specific exhaust ventilations.

Now, obviously, if the specific exhaust ventilation is

583

reduced to zero, as we have hypothecated a moment ago, or to a value which is only a fraction of that which would normally be expected, then the general ventilation of total air changes in the room would become inadequate.

Q. Now, Doctor, assuming that this polishing and buffing room on August 31st, in the afternoon had a temperature of one hundred ten degrees, and that the outside temperature that afternoon was in the nineties, and also assuming furthermore, that the fan was running backwards, with a resulting loss of seventy to eighty per cent in loss of the ventilating system, do you have an opinion as to whether or not that condition could be productive of ill health to the workers employed in that room?

A. I am sorry, sir. May I review the facts before I answer the question? You have—

Q. Assuming, furthermore, it was a hot, humid day.

A. You already are assuming an inside temperature of a hundred and ten degrees?

Q. A hundred and ten degrees, that's right.

A. Fahrenheit. Actually, the effect of the temperature inside the room, in the space occupied by the workers, the effect upon the workers would not be related to the conditions outside of the building particularly.

The workers are not in the air outside. It is the actual atmosphere they are occuping inside the room which will

584

have the effect upon their health, so if I may take this part of the hypothesis—and I understand we have an inside temperature of a hundred and ten degrees Fahrenheit—

Q. And the exhaust fan, the fan running backwards—

A. —and the fan running at low capacity, we find this condition of a hundred and ten degrees Fahrenheit, and

you say a muggy type of condition?

Q. Yes, a muggy, hot, humid day outdoors.

A. Which would give us a relative humidity of somewhere between forty to fifty per cent.

Q. Yes. Do you have an opinion as to whether or not the men working under such conditions would be subjected to danger of any kind?

Trial Examiner: Before the witness answers, may I inquire whether or not it is of any benefit to know whether or not the windows along the wall were open or not?

Q. (By Mr. Corenman) Assuming, furthermore, the windows were open alongside the walls.

A. You will have to give me one bit of extra information. Were there strong turbulences of the air within this room? Were there a number of fans set up, manual cooling fans?

Q. There was one fan set up back in the wheel room—directing your attention to General Counsel's Exhibit 27, it would be away at the further end of the room, the room being eighty foot long, and the fan—it doesn't appear too clearly

where this fan was directed, but it was directed in one position. It is a twenty-four inch blade fan, which did create some air movement within its vicinity.

Taking that into consideration, do you have an opinion as to whether or not, under those conditions, there was danger to the health of the men?

A. It is my opinion that an ordinary group of workers would—under these conditions so hypothecated or described—would be subjected to severe physiological stress from the heat, and it would be expectable to—that at least some of these workers would experience acute physiological response.

Testimony of Doctor William Fredrick

Q. Would you state to us, Doctor, what physiological disturbances these conditions could produce?

A. Acute heat disease takes several different forms. A man's body is so designed to operate at a temperature of somewhere between ninety-eight and ninety-nine degrees Fahrenheit. Man is a combusion engine, and in the process of operation, produces a little useful energy and a great deal of heat. This heat must be dissipated in some fashion or another, or the body temperature will rise above the normal of ninety-eight or ninety-nine. If the body temperature rises very high above this value then serious injuries to the cellular system of the body will occur, injury which will jeopardize life or cause death.

The body, in order to dissipate its heat, utilizes more

than one mechanism. A part of its heat is lost by radiation. It is a warm object. It has a temperature above absolute zero, so it loses its heat energy in the form of infra red radiation.

Man's skin is so designed it will absorb or receive infra red radiation also from the space around it. We can sum the matter up pretty well in this fashion: That if the surfaces around the man have a temperature below that of his skin or his body, he will lose heat from his body by radiation. If the temperatures of the surfaces around him have a temperature higher than his body, he actually will gain heat from the surroundings, rather than to lose heat, and that result is a gain, so whenever a man is working in an environment where the surfaces about him are in excess of body temperature, he is no longer capable of losing heat by this mechanism of radiation.

A man has another mechanism for losing heat by simple conduction. The air which circulates around his skin can be warm and remove heat from his body, a simple air cooling

operation. The heat of the body is used to warm up the air which circulates around him. However, the usefulness of air as a coolant in this fashion is dependent upon the temperature of the air, and when the temperature of the air reaches the temperature of the body, obviously the body can no longer warm it up, and if the air which surrounds the body has a

587

temperature greater than the body, rather than losing heat to the air, the body is actually gaining heat from the air, because now the hot air—having a temperature higher than the body—actually serves to warm it up.

So, whenever we place a worker in a condition where the walls around him, the surfaces around him, are at a temperature greater than that of his body, and where the air temperature around him is greater than that of his body, we are putting him under severe stress from the standpoint of dissipating his heat and preventing his body temperature from rising.

Fortunately, he has one other mechanism of consequence for dissipating heat. He can evaporate water from the surface of his skin, and the water that is available for evaporation must come from within the body itself, and it comes through the pores of the skin and is normally described as perspiration or sweat, and this water is available for evaporation.

Now, it so happens that the conversion of water from liquid to water vapor, to the gas, utilizes quite a bit of heat, and this heat comes from the man's own body, the heat required for the evaporation of this water. Now, the rate at which the water can evaporate from the man's skin depends upon two things: it depends upon the rate at which the air circulates over the skin, and it depends upon the amount of water vapor which is already present in the

air that is being circulated over his skin, and I think there is a limit at any

588

given temperature to the amount of water vapor which the air can hold, the amount of water which can evaporate into the air, and if one had reached the temperature—or the condition in the work room—where that particular temperature, the air already contained all the water vapor that it could contain, then no sweat could evaporate. A man could lose no heat from the evaporation mechanism, and so, under those conditions, a man's body temperature will rise very quickly, just in the matter of a very few minutes, to high values, and severe disease would result.

If there is a smaller amount of water vapor in the air, then more heat can be lost by evaporative cooling, an amount of heat can be lost by evaporative cooling, and that is directly in relation to the amount of water vapor which is already present in the air and the rate at which the air circulates over the skin, because if the rate of circulation over the skin is relatively slow, air in the neighborhood of the skin gets saturated with water vapor, and then the sweat does not evaporate too effectively.

So now we can turn our attention to the nature of the heat that you get, this heat disease.

Trial Examiner: What heat disease do you mean, Doctor? Heat prostration or what?

The Witness: Certain heat conditions can arise under the conditions which have been described to me here under your

589

hypothetical question, and that is that of heat stroke, which is sometimes known as sun stroke.

In the case of heat stroke something goes wrong with the temperature regulating mechanism of the body. The

exact nature of the disarrangement is still not too well understood, but the net result is that the body temperature, rather than staying at ninety-eight or ninety-nine degrees Fahrenheit, begins to rise, and will not stop spontaneously. The body temperature will go to a hundred and three degrees Fahrenheit, a hundred and four, a hundred and five, a hundred and six, a hundred and seven, a hundred and eight—it will continue to rise very rapidly, and without any cessation unless proper and immediate emergency medical treatment is given.

Now, when the body temperature arises to these higher values, serious injury results, particularly in the cellular systems that make up our nervous apparatus, the central nervous system. Heat stroke is recognized as a true medical emergency. This is a disease, this is a condition where the proper medical care of emergency first aid care must be given forthwith if a man's life is to be saved.

In other words, his body temperature must be quickly reduced to normal values, brought under control. It is one of the few conditions that we can recognize as being true medical emergencies where something must be done immediately if the man's life is to be saved or if serious damage to his nervous system is to be avoided.

590

The second type of heat disease which is commonly encountered is known as heat prostration or heat shock, and here practically the reverse condition takes place.

Here again, for reasons which are not completely understood, the worker goes into shock. It is no different than surgical shock, or the shock of accident. In the case of shock the blood vessels of the body relax, the blood pressure drops down, and the man collapses, and he actually has a lower body temperature than usual.

These victims also are in a serious peril as far as their

life is concerned, unless they are given the appropriate treatment for severe shock.

A third type of heat disease, which is not as critical to the immediate life and welfare of the worker, is known as heat cramps. Heat cramps are produced primarily by excessive loss of salt from the body.

Now, under conditions of high temperature—and especially those condition where the body cannot maintain its temperature by the radiation of heat or by the warming up of the air about it—it must try to do it by eliminating sweat, perspiration, and this water contains a fair amount of salt.

Now, if the cooling load is very great, and a great deal of water must be evaporated, a great deal of salt is lost from the body. This destruction of the salt in the body results in severe cramps, which occur in the muscles and the abdomen, and

are known as heat cramps. These heat cramps can be circumvented by providing to the workers an ample quantity of pfoper drinking water, and salt in a form which can be assimiliated by the average worker without the production of nausea or gastric distress. Most of the heat exhaustions can be eliminated in the work room.

Other effects occur that interfere with the ability of a man to work, which may not immediately imperil his health or life. Certainly not to the extent of heat stroke or heat shock. When the heat load, physiological heat load on a man becomes too great, his body temperature does rise above normal. It may rise one degree above normal and level out, not go any higher, and when a man leaves that particular work room and goes back to a cool environment it will drop to normal. Perhaps his body temperature may rise two degrees above normal, and hold there uniform

throughout the work. It is under control, but the man actually is working with a fever.

Under these conditions he may not feel like working. He may not be capable of working, but his life is not in immediate jeopardy.

Another thing which happens when the body has been put under such thermal stress is that his heart rate increases. You see, the air cooling mechanism of the body, the coolant of the body, is primarily blood which is being circulated to the skin, which is the radiating or cooling surface, and the heart

increases, greater pumping, in order to get more blood out to the surface in an attempt to achieve cooling, and as a result the body is put under greater thermal stress, and the heart action increases, the heart rate increases.

Now, the increase of the heart rate, in itself, through moderate ranges, is of no great concern, because a man is designed to control his functions by increasing the heart rate somewhat. Whenever you increase activity, the heart rate increases so more oxygen can be sent to the cells, but at the time the heart rate gets much above one hundred thirty per minute, your pulse rate gets above one hundred thirty beats per minute, then physiological stress begins to appear, and by the time it gets to, say, one hundred thirty-five beats per minute most people are no longer capable of performing much work, and at the rate of, say, one hundred forty beats per minute most workers are at the point of imminent collapse and certainly cannot produce any useful work.

Trial Examiner: I would just like to ask the doctor at this point are you assuming that any such symptoms as you have described are present in this case in arriving at your answer?

Testimony of Doctor William Fredrick

The Witness: I have no information as to the results of medical examinations on these workers. I do not know whether their body temperatures were measured and found to be elevated. I do not know whether any cases of heat stroke occurred or whether

593

any cases of heat shock occurred.

Trial Examiner: So far in this record, Doctor—of course the record isn't finished—but so far in this record there is no evidence, medical evidence, of any symptoms, no medical examinations.

The Witness: As an industrial hygienist, I would predict that under these conditions of work, and with a group of workers who have not been particularly medically selected or acclimated for hot work, that we would expect some of these changes which I have mentioned to appear, and certainly an increase in body temperature and increase in pulse rate because under these conditions a group of men would be under quite severe physiological stress.

The room temperature is twelve degrees above normal body temperature. Heat is being gained from the air by conduction, heat is being gained by radiation from the surfaces around it. The only way the body can lose its heat is by evaporation of water. You already have a relative humidity of forty to fifty per cent, which represents a wet bulb temperature of anywhere from eighty-seven to ninety-two degrees, and in my experience a—or working conditions involving expenditure of effort in connection with polishing and buffing operations, wet bulb temperatures of eighty-five, or above, degrees represents a very critical stress.

Trial Examiner: Doctor, the human body has remarkable

594

ways of adjusting itself to these temperatures, hasn't it?

The Witness: Up to a certain point.

Trial Examiner: What I have in mind now is walking from an air conditioned building or theatre where the temperature may be seventy-five degrees and stepping out onto the sidewalk where it is ninety-five or a hundred degrees.

Now, that calls upon a person's system to make immediate adjustments, but for the most part that adjustment is made.

The Witness: That is because the temperatures you experience are still those that do not put undue thermal stress on man. The point is, under the conditions which have been described to me, the temperature is not in the neighborhood of ninety-eight, or below that of body temperature. It is a temperature which is twelve degrees above the normal body temperature, so the air around the body is tending to heat it, and the radiations around the body are tending to heat it, so its only way of compensating or adjusting to this condition is by the evaporation of water, but the air already contains a substantial amount of water, and it is not in violent motion being circulated over the body at a rapid rate, so this presents a condition which the body can scarcely cope with.

Now, it can cope with it in one way, by reduction of activity, because the amount of heat which is being produced by the body is also a function, by the amount of activity or exercise or work that is being done.

595

If the man wants to relax completely, to stop work, to lay down, then heat generated by the body would be markedly reduced, and the heat that would have to be dissipated would be markedly reduced. There is definitely a relationship between the degree of activity and the amount of stress that is being imposed, which determines

whether the man or the body can adjust to this new condition or not, or whether its temperature will rise, its pulse rate increase or perhaps a serious derangement of the temperature control mechanism occur, which results in heat stroke or heat shock.

Trial Examiner: Anything further?

Q. (By Mr. Corenman) Now, Doctor, do you have an opinion as to whether or not the loss of efficiency in the blower system would in any way make the men more susceptible to danger of heat stroke or heat shock?

A. Will you refresh my memory? What did you say the outside temperature was?

Q. The outside temperature, according to the testimony, was in the nineties. I believe my recollection was ninety-six or nighty-eight, in that area.

A. Ninety-six, and the inside temperature under the same circumstances, and with markedly reduced ventilation, is one hundred ten?

Q. Yes.

A. Degrees Fahrenheit. Well, natural ventilation is notor-

iously poor, as a means of positively changing air within a room. Now, we have available outdoors air which is at a temperature of ninety-six degrees Fahrenheit. The reason why the temperature is greater inside of this room is because there are many operations which produce heat inside of this confined space. There are motors running. There is energy being expended in the buffiing operation, which tends to heat up metal. There are men occupying the room. All of these things tend to supply heat to the room.

Now, I think it becomes apparent if we were to draw a sufficient quantity of this outdoor air, ninety-six degrees, through this room, we eventually could make the tempera-

ture inside the room exactly the same as the temperature outside the room, as far as the thermometer would be concerned.

Outdoor air of ninety-six degrees is available for cooling off this particular work room if we can draw a sufficient quantity through it.

Now, without the—the only way we could be positive without drawing a definite quantity or amount of air through here, is by mechanical means. The ventilation system on the buffing wheels provides for us the mechanical means, the positive means of bringing in this instance thirteen thousand five hundred cubic feet a minute of this ninety-six degree air outside the building into the plating room, and available for reducing the temperature inside that room, and also

increasing the air motion around the workers.

My own feeling is that if the ventilation system in this room, which appears to me to be a well-designed, well-engineered system, were in opeartion, in its normal fashion, that it would not be possible to achieve a temperature of one hundred degrees Fahrenheit inside this workroom when the outdoor temperature was ninety-six degrees.

Q. Now, considering not only the fact that the cool air from the outside would have been brought in by the blower system operating to full capacity, is also the fact of air movement by individuals as they work by their machines—the air movement, the movement by the people—that that would have had any cooling effect in reducing their body temperatures?

A. That would increase the loss of heat due to evaporating cooling. Within limits, the greater the air motion over the body, the greater the loss of heat by evaporating cooling for any given relative humidity or wet bulb tem-

perature.

I think we have all experienced that effect, that when the air is circulated briskly over the skin it is cooler than when the air moves over the skin at a very slow rate.

Trial Examiner: This witness has now been testifying a little over one hour and fifteen minutes without respite, and we will take a short five-minute recess.

(Recess.)

598

Trial Examiner: All right, come to order.

Q. (By Mr. Corenman) Now, summing up your testimony which you have just given, would I be correct in saying that in view of the conditions which existed in the plant on the afternoon of August 31st, assuming that conditions existed in the plant on the afternoon of August 31st of an inside temperature of a hundred and ten, and an outside temperature in the nineties, and seventy to eighty per cent loss of efficiency in the blower system. To sum it up, your opinion would be that under such conditions there was a danger to the men of several types of heat disease, namely heat stroke, heat shock, heat cramps, and you named one other.

A. Increase in body temperature or increase of pulse rate.

Q. Is that a correct summation of what you have testified to?

A. Yes, plus the fact that it is expectable that within a relatively short period of time they might reach the end of their capacity to work. There is simply a limit to the amount of performance which can be done for any length of time under conditions such as that.

Mr. Corenman: Shall we take cross examination?

Trial Examiner: I just have one question I would like to ask at this particular time, before cross examination

starts. I don't exactly understand your last answer, Doctor, with reference to the impaired efficiency of the fans. What I

599

understood you to testify before, if there was no operation of the blower system at all, starting at zero, that such a condition would not be dangerous and would not be disabling.

The Witness: My testimony at that time was in respect to the particulate matter in the air. You asked me the hypothetical question that if the ventilation were stopped. I stated there would be no immediate peril to health or life or well-being of these workers in respect to the particulate matter in the air. The matter of heat had not yet been introduced into the discussion. Does that clarify the point, sir?

There are two problems here. One, of particulate matter, and the other, of heat.

Trial Examiner: When you answered with respect to the question which I gave you earlier, which you answered, assuming that there was no operation of the blower system, were you assuming any particular degree of temperature?

The Witness: I was leaving temperature ort of the consideration completely. I was answering only in respect to inhalation of dust. I was assuming normal temperature.

Trial Eaminer: To be what?

The Witness: To be a temperature, a temperature condition under which the body would not be subjected to thermal stress, excessive thermal stress. Perhaps a temperature under ninety-eight degrees Fahrenheit.

600

Mr. Langs: On this last point, for my clarification then, also, as I understand it, Doctor, you have stated—you refer to it as particulate matters. I assume that to mean the

matters which might travel in the air as a result of the buffing operation, as such. That's what you are referring to?

The Witness: Yes.

Cross-examination

Q. (By Mr. Langs) • • •

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601

Q. Let me ask you this question: You stated you have been in some buffing and polishing operations in the City of Detroit?

A. Yes.

Q. You find some dirt around on the floor?

A. Large particles, yes.

Q. Is the particle dirt, or am I wrong in that?

A. Well, if you are discussing this from the stand point of health, aside from the possibility of producing dermatitis on the skin, the particles we are concerned with are those which are capable of entering the lung. It just so happens that large particles are not capable of entering the lung. • • •

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605

Q. Now, one of the last questions which you answered on direct, Doctor, was that assuming one hundred ten degree temperature you stated an employee would shortly reach the end of his ability to work. What period of time do you refer to when you say "short"?

A. Perhaps one hour or two hours or three hours.

Q. Now, I believe you also stated, Doctor, that given an average group of men working at a temperature of one hundred ten degrees, assuming that as a fact in the question which I am asking you, that some of them would show

signs of this heat problem, that is, to some degree.

Do I understaad correctly your answer in that respect?

A. Assuming a temperature of a hundred and ten degrees Fahrenheit, and a relative humidity of forty to fifty per cent, I would expect some of these workers to show this difficulty to a greater or lesser extent.

Q. And what period of time would it take? An hour, two hours or what?

A. One hour, two hours or three hours.

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606

Q. You said assuming any group of men, you would find someone in there that would show signs of heat cramps or heat shock or heat stroke or heart increase or something.

A. Pulse rate increase or increase of body temperature, I so believe.

Q. Now, in the event that none of those particular items would develop, and assuming in a given number of men, would that be some evidence that possibly the temperature was not one hundred ten degrees in there?

A. I would answer in this fashion: If no symptoms of heat disease, including increase in body temperature, increase in pulse rate, or severe fatigue appeared, then the men were not under sufficient thermal physiological stress to produce disease, and the temperature in all probability was substantially lower or the relative humidity was lower or both were the case.

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612

Q. Now, in your very lengthy—shall I call it your answer or lecture—on heat, did you mean to infer by that that there are not jobs in places where men are called upon to work in rather warm or even hot circumstances?

A. No, there are jobs where men are called upon to work in those circumstances.

613

Q. So that the human body does adjust itself to rather hot conditions?

A. It is possible under favorable circumstances, for the human body to adjust itself to fairly hot dry bulb temperatures.

Q. Were you in the room this morning when Mr. Morley testified and identified the openings in this buffing room and polishing room?

A. I was in the rear of the room. I did not know to what his testimony was referred.

Q. Now, Mr. Morley testified that along two walls is a row of windows. One set of windows is approximately eighty feet long, and one is approximately twenty-five feet long, and these are all steel windows which set one alongside of the other so that they can be opened up.

In the east end of the buffing room, at the time of day in question, there was located a twenty-four inch fan which was blowing right down this row of jacks.

At the west end on the south wall there is a door opening which goes up to the ceiling, twelve-foot ceiling, approximately the top of the ceiling, about twenty feet wide, which opens out into and adjoins the plating tanks, and the barrels over these plating tanks; there is also a series of blower fans to take off the fumes from the plating setup. That is immediately adjacent off in this direction of the buffing room.

A. And this door opens to the plating room.

614

Q. It opens right alongside of the plating room. Then down along the south wall towards the east end there is also a door around twelve to fifteen feet wide, and in addi-

tion there is a door on the north wall, a standard door, a little bit wider than the standard door, which they can roll wheel barrows through.

Now, assuming that these windows are all open. This door on the north wall is open. This twenty-four inch fan is going at its full capacity. The twelve to fifteen-foot door is open in the south wall, and the door adjoining the polishing room, which is around twenty feet wide and almost twelve feet high, is open, and which adjoins the plating tanks where blowers are sucking air from that particular point.

Assuming those facts from the standpoint of ventilation, and you have outside a ninety-six degree temperature, or ninety-eight degree temperature—I guess both degrees have been used by the Labor Board in this case and their witnesses—assuming this type of temperature outdoors, what in your opinion would be the maximum amount of temperature that would be indoors in that room?

A. That, again, is an impossible question to answer because a great deal depends upon the velocity and direction of the wind at that particular building. If wind of a hurricane proportion swept across the building—

Q. You can eliminate the hurricane proportions. There was no

615

hurricane in Richmond that day. There was a normal day.

A. The division, on the other hand, which is apparently a dead calm, with practically no breezes stirring, which made little difference whether the window was open or not. You are familiar in the situation in a dwelling at night, all of the windows are open, but it is much hotter inside the dwelling that it is outside, in spite of the fact the windows are open.

Q. I think you can eliminate that, Doctor, because we

have got here in the hypothetical question the fact that there is a movement of air not only from the twenty-four inch fan which is situated in the room, but also blowers which are immediately adjacent to the large opening in this room, which are drawing air out of the building, and exhausting it on top of the building.

Mr. Corenman: In the plating room, you mean?

Q. (By Mr. Langs) I am asking you to confine your opinion to the question which I have given you.

A. You impose upon me a very difficult problem. I know nothing about the ventilation in this plating room, its quantities, or where the air supply comes from, and that sort of thing, but in my honest opinion I think the thermal gains in the plating room—the thermal gain from this solar load under the roof and walls, plus the load inside from such other sources as are there—would be sufficiently in excess of

616

the cooling capacity of the ninety-six degree outdoor air which might find its way into this room to produce a significant rise in a temperature within the buffing room, and I would expect the temperature in there to be several degrees higher than the outdoor temperature.

Q. In other words, you come back to the same answer which you gave before, that it would be anywhere from three to four degrees higher? You have given that answer twice now.

A. No, I am not coming back to the three to four degrees. The three to four-degree answer presupposed on positive mechanical displacement ventilation bringing into this room thirteen thousand five hundred cubic feet a minute of outdoor air.

Under the circumstances which you described to me, it would be most unusual and unexpectable for this quantity

of outdoor air to be coming into the room.

Q. Would there by any coming into the room?

A. There may be some coming into the room. There may be some going out; natural ventilation is one of the most unpredictable things which one can ever encounter, and that is why it is not possible to rely upon natural ventilation for the cooling of buildings. That's why we use mechanical ventilation.

Q. Doctor, if there was some circulation in that room and you had all of the windows open and the blowers and the openings

which I have indicated, and you didn't have any motors in there, anyone working, and you had some circulation in that room, isn't it true that you would over a period of time have a temperature inside approximately the same as outside, with the exception possibly of a degree, two or three above the outside, isn't that true?

A. No, you may have sufficient solar load on the roof and walls, that even though you have a modest amount of circulation of air, you may get an increase in temperature in the room. If the cooling effect of this outdoor air is based entirely on the quantity which is put through, and in my own experience, in the average workroom where the average amount of heat is being generated, and the solar load is what one would reasonably expect on the building, in order to have the indoor temperature approximate the outdoor temperature you need approximately an air change a minute in that space, sixty air changes an hour.

It takes a very large air change within the space to match the indoor temperature with the outdoor temperature. That's just the way it works out.

Q. Isn't it true, Doctor, that that particular room would level off to the same extent or be approximately the

same temperature as other parts of that same building?

A. No, I don't believe so.

Q. You think this room would be hotter than other portions

613

of the building?

A. It might be hotter, it might be cooler. There might be another portion of the building in which furnaces were in operation, a large bank of furnaces in this room might be enclosed, and it could well be hotter.

You may have another room on the interior of the building where all of the walls were shielded from the sun because they were shielded by other exterior walls, and the solar load was light and no heat put into the room, the temperature might be cooler there.

Certainly as long as you have an active process, with heat being generated in some spots and not being generated in others, and having partitions in the building, you will not assume uniform temperatures throughout the building. You can eventually come to an equilibrium condition where a given room will hold a constant temperature, but it will not necessarily be the same as other rooms within that building.

Q. In other words, as I understand it, if the room was shaded or was blocked from the sun by other walls, the sun was not shining directly upon that room, that particular room would tend to be lower in temperature under a given set of facts than other rooms in the same building?

A. Provided there was no heat being generated, a furnace or heat source within the room itself.

Q. Within the room itself?

619

A. The solar load is an important thing in the heating of a building in the summertime.

Testimony of Doctor William Fredrick

Q. In the event the walls are not exposed directly to the sun, then that would affect the heat of that particular room on a given day, right?

A. For a given type of wall construction. Of course you understand with glass, even though the sun is not shining directly against the wall, a great deal of radiant energy comes in through the glass, just from the reflected sky light. Windows do not have to have the sun shine down directly in, whereas if that wall was of opaque material that was not transparent for infra red energy, and especially if the wall reflected infra red energy, then that would be particularly cooler.

Q. Now, Doctor, I show you again exhibit 28, and for your information—and you can assume as a fact in this case—that this room is located in the northeast corner of the building, and this wall along the south side is probably thirty feet, forty feet in one place, away from the next wall for the south, and in one instance a portion which is to the west, it is probably eight[illegible] feet or so from the wall that is on the outside. Now, this problem which we had presented to us occurred in the afternoon, three o'clock in the afternoon, and continued until sometime around five o'clock or thereabouts.

Now, at that particular time, Doctor, there would be no

sun shining directly on this room, because it is surrounded by walls on all sides which are not immediately adjacent to the sun, and the sun at that particular point would not strike either an easterly or northerly glass pane, now, under what you have just said then of course it could follow that that room would have an advantage over a room that was directly in contact with the sun either on the outside wall or through a glass through which the sun was shining, isn't that right?

A. Possibly, yes; possibly, no. I do not know enough about the nature of the wall structure and the general window area and the heat generation in this room with respect to other rooms to make it possible for me to make a forecast as to what the probable temperature would be within this room. I just couldn't forecast it and I wouldn't want to hazard the effort of forecasting it.

Q. Doctor, we are of course dealing not in the specific here. We are dealing in hypothetical questions, and you indicated that one of the factors to be considered in determining the possible heat in a room was the fact whether or not the wall was immediately adjacent where the sun could shine on it, whether or not you were getting a direct sun into the room, all of those things would be considered in determining the possible heat load in that room.

A. Yes. Just how those factors would serve to add or subtract one another is an extremely difficult thing to

621

predict, and I don't believe I would want to undertake it.

Q. Doctor, you made the statement. I didn't make it. That that was a factor to be considered and would affect it.

A. Yes.

Q. It certainly wouldn't increase the load if you had a room away from the sun, would it?

A. It is a factor to be considered—

Q. Answer my question. It wouldn't increase it?

A. In the summation of this I don't know whether we would arrive at a greater or lesser value because this is only one of the factors.

Q. Doctor, if you have something without anything else attached to it, and if the sun shines directly upon it, it is hotter than if you have something which is not exposed directly to the rays of the sun. Now, isn't that true?

A. Not necessarily. It depends upon the surface the un is striking. The surface the sun is striking may be a vall with a perfect reflecting surface that will reflect ninety-nine and nine-tenths per cent of the infra red ray nsulation, and no heat may come through the surface, and ou may definitely have a hotter condition on a normal vall structure that is shaded.

Q. Now, Doctor, I want to ask you a couple more questions, and then I have concluded my cross examination.

You have assumed here a temperature of one hundred en degrees. Now, in the event, we will assume this fact —in

622

the event this temperature was not one hundred ten degrees in this room, but was twenty degrees lower, or something around, we will say, ninety degrees, or a little bit below ninety degrees, would your long answer with respect to the heat problem which you gave apply under those circumstances?

A. With the expectable amount of radiant energy one could anticipate from the description you have given me?

Q. Doctor, that was not the question at all. My question goes directly to what you said before, and I am asking you whether or not, if we reduced this one hundred ten degrees to a temperature of ninety degrees or less, would the statement which you commented upon about heat shock, heat cramps and all the other things, would that apply equally at a temperature where people were working under less than ninety degrees, as well as one hundred ten?

A. In general, the risk would not be extant. There are exceptions I can't avoid, because we may have a condition of this ninety degree nperature which is only one part of the picture.

This is a dry bulb temperature, and we may still have the air in this space completely saturated by water, vapor, so no heat can be lost, and we may have infra red source which represents an important gain, heat gain, in which case the man would be in trouble.

Q. Doctor, what did you assume when you answered Mr. Coren-

man's question when you gave us this half hour lecture?

A. I assumed the facts given to me was a temperature of one hundred ten degrees Fahrenheit, a relative humidity between forty and fifty per cent, and a normal amount of infra red ray radiation in the room, what you would expect from wall temperatures at substantially a hundred and ten degrees.

I did not assume there would be molten metal in the room, or in front of an open hearth furnace, or anything like that. I assumed here a room with radiant surfaces essentially at a temperature of one hundred ten degrees Fahrenheit, an air temperature of one hundred ten degrees Fahrenheit, and a relative humidity of thirty—or forty to fifty per cent.

Trial Examiner: I understand Mr. Langs' question to be, Doctor, you assume all of those facts, and change the temperature assumption from one hundred ten to ninety or below, would your answer be the same? Is that it?

Mr. Langs: That is what I am asking.

The Witness: I want to be sure I have the facts. In this new hypothetical situation the dry bulb temperature is ninety degrees Fahrenheit, is that correct?

Q. (By Mr. Langs) Make it under. Eighty-nine per cent, to be exact.

A. Eighty-nine.

Q. So we have something to hang onto.

A. And the relative humidity is forty to fifty?

624

Q. Let's take forty per cent so we can have something we can tie into.

Trial Examiner: I assume you are going to assume the same facts you have already assumed when you gave your answer on the hypothetical question referred to, a temperature of approximately one hundred and ten degrees.

Now, assume everything, and change only the temperature reading.

The Witness: I do not believe there would be a problem of severe heat disease under these conditions, considering this same hypothetical situation, the same degree of activity and the same relative humidity, the same wall temperatures.

I think when the air temperature is dropped to ninety degrees fahrenheit one would not expect these workers to be in immediate peril with respect to their health or well-being.

Q. (By Mr. Langs) In other words, you wouldn't expect them to be in any abnormal hazardous or perilous condition?

A. They are under more thermal stress than if the temperatures were down at eighty degrees or seventy degrees, of course, but I have told you I do not believe they are in any immediate peril.

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627

JOHN WILLING, a witness called by and on behalf of the General Counsel, being first duly sworn, was examined and testified as follows:

Testimony of John Willing

Direct Examination

Q. (By Mr. Corenman) * * *

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631

Q. Now, after the switch box blew out did the blowers work?

A. No.

Q. So what did the foreman do?

A. He sent us home.

Q. Now, the afternoon of August 31st you say you went to work at your usual starting time at three-thirty?

A. That's right.

Q. Did you notice anything about the blowers that afternoon?

A. It wasn't sucking, that was one sure thing about it. It was running but there was no suction whatever on the blowers.

Q. Did you do any buffing that afternoon?

A. I polished a couple of hundred pieces of arms, and I was just starting to buff and it was more than I could take.

Q. What was occurring when you were buffing? Describe what was happening.

A. Well, when you start to buff you usually kind of rake up the wheel to get it to run smooth, and when you raked up the wheel a little to smooth it up all of that dirt and stuff just came around the wheel, it came around this way and came right out on you, and usually it would draw it down into the box, but this particular time it blew everything all over you, and in-

632

stead of it going into the air pipes it would blow all over the buffing room, and it was hard to breathe with all of that dirt.

Testimony of John Willing

Q. So now what did you do about it, if anything?

A. Well, we tried it for a while, and it was pretty dirty, so we went to the steward to see whether he couldn't get something done about it, and of course the steward went to the president, and they both went to see about getting it fixed.

Q. You say the president. You mean the president of the union?

A. That's right, and Mr. Hicks and Mr. Morley, they both came out into the buffing room, and checked the draft, and at one particular—that one particular buffing wheel Mr. Morley blowed cigar smoke into the blower business, and it didn't take the smoke away, and they went to the others and stuck their hand down in it, and the same thing. There was no draft. So they went around to the big pipes to see if they were full of dirt. They seemed to be clean, but still no draft, and so they came back and we were all standing there talking, and finally I says to Mr. Morley, I says, "Say, Mr. Morley, maybe the wires are hooked up wrong on this blower system, because it is not reving up there the way it should", and he says to me," Don't you think my mechanics know what they are doing?", and I says, "No, I didn't say that, but", I says,

"every man is entitled to one mistake", and I also said I had hooked up the motor, a motor of my own, out on the farm one time. I had the wires crossed, and it didn't turn over the way it should, and I switched the wires, and it was all right.

Q. Now, can you state whether or not the men had any discussion amongst themselves concerning the conditions in the plant that afternoon?

A. Well, we all—

Mr. Langs: I object to what they might have discussed

between themselves.

Mr. Corenman: I asked him if they had any discussion.

Trial Examiner: The witness may answer whether or not they did have any.

The Witness: Why, yes.

Q. (By Mr. Corenman) Did they have any discussion with reference to the conditions in the plant that day, and if so, state it.

Mr. Langs: Just a moment. I object.

Trial Examiner: He may state whether or not they had any discussion with reference to the conditions in the plant.

Mr. Corenman: Yes.

Trial Examiner: Did they or didn't they?

The Witness: Yes.

Q. (By Mr. Corenman) What discussions did you have?

634

Mr. Langs: I object to that question. Not binding upon the respondent in this case at all.

Trial Examiner: I will allow the question or some possible evidence on the question of concerted activity. Ruling, however, it is not at this time binding upon the respondent in any way, unless otherwise made known to them.

The Witness: You mean I may answer?

Trial Examiner: Yes, you can tell us what the talk was.

The Witness: Well, we talked it over, what we should do, and we decided if the blower wasn't going to be fixed we couldn't work the way it was, and we decided we would go home until they could fix it.

Q (By Mr. Corenman) Now, what was your reason for leaving that day?

A. Well, you take when a fellow is working that way and he has two pairs of gloves on, you know, it is pretty hot stuff that you work with, all of that hot, that heat, and the

dirt and things getting up in your nose, and your arms are all covered with that buffing, from the buffing wheel, and the compound and one thing and another, you get some of that fuzz up your nose, you can't pull your gloves off to pull that stuff out of your nose like that, and you go like that, instead of wiping it off you only put more in it. With that heat and dust, why, you couldn't stand it, couldn't work under those conditions.

635

Q. Did you have any belief at that time as to whether or not it was injurious to your health to remain and work under those conditions?

A. I knew it wasn't doing me any good, if that's what you mean.

Q. Yes. Now, directing your attention to General Counsel's Exhibit Number 27, a pipe which runs along the wall the windows are on there, just underneath the windows, I will ask you if you know what that pipe is?

A. Yes, I do.

Q. What is that pipe?

A. That is either—now, I wouldn't say exactly that I knew. It is either a steam pipe—

Mr. Langs: I object to the testimony, then.

Q. (By Mr. Corenman) Have you ever seen that pipe in the room?

A. Yes.

Q. Have you ever noticed as to whether it is hot or cold?

Mr. Langs: Just a moment.

The Witness: It is hot.

Mr. Langs: Just a moment. I object to any further questioning of this witness as to what that pipe is, and so forth. The fact he saw a pipe there—beyond that he is precluded, has precluded himself from his answer, as to

any further description as to what the pipe contains.

636

Mr. Corenman: He may have precluded himself from telling just what function the pipe serves, but he can tell what he observed about it.

Mr. Langs: The answer and the question precludes any further questioning along that line.

Trial Examiner: He said he didn't know what the pipe was for. He is, of course, unable to answer that question any further.

Mr. Corenman: That's correct.

Trial Examiner: But with respect to the second question, as to whether he knew whether it was hot or not, I think you had better lay a better foundation for that question.

Q. (By Mr. Corenman) Very well, have you ever had an occasion to observe whether or not the pipe was hot or cold?

A. Yes.

Q. Will you tell us your observations on it?

A. Well, there is times that a fellow wants the windows open, and then there are times a fellow wants them closed, and if you climb up thereon a bench to open the window or close it, why, you get in contact with that pipe, and it is hot.

Trial Examiner: Did you ever get in contact with the pipe?

The Witness: That's right.

Q. (By Mr. Corenman) Is that condition—what part of the

637

year is that true, that it is hot? Is that just in the winter time or all through the year?

A. No, I believe it is all through the year.

Testimony of John Willing

Trial Examiner: Do you know how hot it was?

The Witness: If you touch it with your bare hands you ain't going to hang onto it.

Q. (By Mr. Corenman) I will ask you whether or not on the afternoon of August 31st, whether you made any observations as to whether or not the temperature inside the buffing room, whether inside the buffing room it was any different than it was outside?

A. Yes, it was.

Q. What difference did you notice?

A. You can notice a great difference if you stepped outside to get a breath of fresh air.

Q. Was it hotter or cooler in the buffing room?

A. It was hotter.

Q. Now, I will ask you whether or not on the afternoon of August 31st you had an occasion to step outdoors?

A. I did.

Q. Will you state whether or not any of the other fellows did?

A. Yes, there was several of them went out.

Q. And do you recall on how many occasions the fellows stepped out of the buffing room that afternoon?

638

A. Well, I couldn't say. You know, you can't watch everybody, but I went out a couple of times myself.

Q. Why did you go out?

A. To get a breath of fresh air.

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639

Cross-examination

Q. By Mr. Langs) * * *

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640

Q. Now, you mentioned when you first put a wheel on in order to balance it or clean it, whatever you do, first of all you give it a rake?

A. That's right.

Q. Will you describe a rake for the Examiner, please?

A. Well, it is a wooden handle, and has a grip on each end, with a steel gadget on there. It has three rows of steel, sharp prongs on it that you hold up to the wheel like to rake the lumps out of it.

Q. And you hold that against the wheel for a matter of, oh, ten seconds, fifteen seconds, thirty seconds, something like that, to clean it?

A. It all depends on how rought your wheel is.

641

Q. In other words, it might be a matter of just a couple of seconds?

A. That's right.

Q. Or it might be a matter of fifteen, twenty or thirty seconds?

A. That's right.

Q. And then you proceed to put your Tripoli or your chrome buff or your nickel buff stick on the wheel, and then you start to work, is that right?

A. Yes.

Q. Now, how hot a day was this outside when you got to work and while you were working there, until you went home?

A. I didn't look at no thermometer, but I know it was awfully hot driving down.

Q. Do you have any idea how hot it was inside, in the buffing room?

A. Well, I didn't give it no thought, how het it was. I know when I start to sweat it has got to be pretty hot.

Testimony of John Willing

Q. So that while you were working there until five o'clock, or whatever the time was when you left, it was hot enough for you to sweat?

A. That's right.

Q. Would you say that has to get up over one hundred degrees before you sweat?

A. Well, I wouldn't say it would have to. Anywheres from

642

ninety up.

Q. Then in other words the temperature in the buffing room could have been anywhere from ninety degrees up while you were there?

A. That's right.

* * * * * * *

HERBERT FOX, a witness called by and on behalf of the General Counsel, being first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Corenman) * * *

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643

Q. Were you formerly employed by the Knight Morley Corporation?

A. I was.

Q. About how long did you work for them?

A. I worked for them about three or maybe three and a half—pretty close to three and a half years.

Q. Your job was that of a polisher and buffer, is that correct?

A. Yes, sir.

Testimony of Herbert Fox

Q. You worked on the day shift?

A. That's right.

Q. Now, did you work on Monday, August 31, 1953?

A. I did.

Q. You started work at the usual time of seven in the morning?

A. Yes.

Q. Did you notice anything unusual about the blowers that morning?

A. I recall that the foreman—I asked him what was wrong with the blowers, and he said he didn't know. I was standing around, and he says to me, "You had better get to work or I am going to fire you", and I said, "I am not going to work in this dust," because I am definitely afraid of getting tuberculosis or whatever you call it, and I don't know, I am worried about my lungs in that dust, and so I said, "I quit."

644

Q. That's the day you quit, you are talking about now?

A. Yes.

Q. September 1st?

A. Yes.

Q. Is that the last day you worked, September 1st?

A. Yes.

Q. About what time of the day did you quit that day?

A. I only worked an hour and a half or two hours. I don't recall for sure.

Q. Do you recall the previous morning, August 31st, whether you went in to work?

A. Yes, I was there.

Q. Do you recall how long you worked that morning?

A. I don't recall for sure. I won't say, because I don't know for sure.

Q. Do you recall whether that is the morning after two

hours everybody was sent home?

A. Yes, something like that.

Q. What was your foreman's name?

A. John Vandelberg.

Q. Will you say whether or not you gave any reason to Mr. Vandelberg why you were quitting?

A. He says to me, he says he was going to fire me, and that kind of got me riled, I guess, and I said he could have the job, it was too dusty for me.

645

Q. Will you state whether or not the blowers were working on the morning of September 1st?

A. The end that I worked they never were. They were plugged half way in the middle. I know for sure my end was never working. Every morning we clean them up before we would go to work.

Q. Take the morning of September 1st. Do you know whether or not the blowers were working?

A. They weren't working. We used to climb up on the pipes and take the pipes down every morning and clean the elbow out.

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Q. (By Mr. Corenman) Directing your attention to this pipe that runs beneath the windows on General Counsel's Exhibit 27. Have you ever noticed that pipe in the room there?

A. Yes.

646

Q. Have you ever had occasion to observe whether it is hot or cold?

A. It is hot.

Q. At any certain times?

A. Well, I was on the end of the machine here by the door, and my head was right up against it all day.

Testimony of Herbert Fox

Q. Was there any particular time of the year it was hot?

A. It was hot the year around.

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647

FRANCIS V. FASBENDER, a witness called by and on behalf of the General Counsel, being first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Corenman) * * *

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Q. Are you one of the individuals who went on strike on

648

September 1st, 1953?

A. That's correct.

Q. How long did you work at the Knight Morley Corporation?

A. About four and a half years.

Q. Your job was that of a buffer and polisher?

A. Yes.

Q. You worked on the day shift?

A. Yes.

Q. Do you recall working on Monday, August 31, 1953?

A. I worked two hours, is all.

Q. Did you notice anything about the blowers that morning?

A. Well, they wasn't drawing properly.

Q. What brought your attention to that, that they weren't blowing properly?

Mr. Langs: Again I want to object to counsel leading

the witness. I won't object if he asks the proper questions and gets the proper answers.

Trial Examiner: I consider that to be a proper question. The witness testified first they were not working properly, and then counsel asked him what directed his attention to that conclusion.

The Witness: There was more dirt flying around.

Q. (By Mr. Corenman) Can you speak a little louder?

A. There was more dust flying around, getting on your arms, and you could see they wasn't drawing.

649

Q. Now, were you one of the men that were sent home?

A. I was sent home.

Q. Now, did you return to work on Tuesday, September 1st?

A. Yes.

Q. State whether or not you learned anything that morning with reference to what had happened to the afternoon buffers.

A. Yes, we were told that they were fired.

Q. And did you notice whether or not the blowers were working on Tuesday, September 1st?

A. No, they were not.

Q. What did you observe about that?

A. Well, the same as before, there was more dust and you could put a rag up by the blower and it wouldn't move it.

Q. Now, where did you observe this dust? I will withdraw that. Will you state whether or not any of the dust settled in any parts of the room on any persons, and if so, where and on what, in what quantities?

A. I got about a quarter of an inch on my arms, on the hair, stick on your arms, and on the machines; it settled all over.

Q. What, if anything, did you do about the dust when it settled on your arms?

A. Take an air hose and blow it off.

Q. Do you recall about how many times on September 1st you used the air hose to blow the dust off your arms?

A. Several times.

650

Q. Now, at the end of the work day do the men usually clean up the floor around their machines?

A. Yes.

Q. Did you clean up around your machine on September 1st?

A. Yes, I did.

Q. What, if anything, did you notice about the amount of dirt and dust on the floor that day in comparison to other days, normal days?

A. There was more.

Q. About how much more would you estimate?

A. Oh, there was about two, a couple shovels full.

Q. How many shovel fulls?

A. About two.

Q. On a normal day how much would you sweep up around you machine?

A. Around my machine I never got too much, not no more than a cup full.

Trial Examiner: How much?

Q. (By Mr. Corenman) A cupfull?

A. Around my machine.

Trial Examiner: This two shovel fulls that you referred to referred to your machine or the whole floor?

The Witness: I was referring to mine.

Trial Examiner: Referring to your own machine?

The Witness: Yes.

651

Trial Examiner: You got two shovel fulls instead of an ordinary cup full?

The Witness: That's right.

Mr. Corenman: You may cross examine.

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652

Cross-examination

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654

Q. (By Mr. Langs) I understand you worked a full shift on Tuesday, September 1st?

A. That's right.

Q. Did you ever work at buffing at any other place besides Knight Morley Corporation?

A. That's the only place.

Q. Buffing, in your opinion, is not the cleanest place to work in a factory, isn't that right?

A. That's right. It is dirty work.

Q. It is dirty work, and it is rated as such, is that right?

A. To my best knowledge.

* * * * * * *

Mr. Corenman: Is that piping that runs along the wall--

655

is that hot or cold?

Mr. Fasbender: Hot.

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Testimony of Edward Gierke

EDWARD GIERKE, a witness called by and on behalf of the General Counsel, being first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Corenman) * * *

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656

Q. Did you work on the afternoon of August 31, 1953?

A. I did, for about an hour and a half.

Q. What kind of a day was August 31st with respect to the weather?

A. It was a warm, hot day; quite hot.

Q. Now, did you notice anything about the blowers when you started work that afternoon?

A. I did.

Q. Will you tell us what you observed?

A. We put on your wheel, and I started chrome buffing.

Trial Examiner: Keep your voice up, please.

The Witness: I started chrome buffing, and naturally you rake the wheel before you put the compound on it, and as I raked it I noticed the blower wasn't sucking, so I—

Q. (By Mr. Corenman) When you say you noticed the blower wasn't sucking, what happened that indicated that to you?

A. Well, instead of the lint going in the box it was falling down on the floor.

Q. Now, you say you did what kind of buffing that day?

A. Chrome.

Q. Now, did you notice anything with respect to what was happening to the dirt and dust while you were chrome buffing?

Mr. Langs: I think the witness has already answered that,

657

r. Examiner.

Mr. Corenman: I believe the first question was directed raking the wheel.

Trial Examiner: He may answer.

The Witness: The dirt was falling on the floor and ttling on your arms and on your clothes and on your pron.

Q. (By Mr. Corenman) I will ask you whether or not at normally occurs when the blowers are working and in ood shape?

A. It does some, but not like it did this particular day.

Q. Now, did you do anything about it yourself?

A. I didn't. I was at the end of the line, and I was rome buffing, and I asked some of the boys whether anying was going to be done about it, and finally I asked our eward, Joe Muniz, and Joe and Mister--they went in to e Mr. Morley, I believe, and also Mr. Harsch, and there asn't anything done about it, and Mr. Morley come out, nd Mr. Hicks, to check what was wrong.

Q. What check, if any, did you see Mr. Morley make?

A. Mr. Morley checked the machine different places. e blew smoke in the blower where the wheel was supposed be drawing up, and the smoke didn't go up this particular ace, and he also went around and checked the various aces, whether it was plugged.

Q. Now, I will ask you whether or not you left your ork that afternoon with the other employees, the other uffers and

658

olishers?

A. Pardon?

Q. Did you leave your work that afternoon with the st of the buffers and polishers?

A. I left work with the rest of the men.

Q. With the rest of the men?

A. That's right, punched out and went home.

Q. About what time was that that you all punched out?

A. I should say around five o'clock, in that neighborhood.

Q. Did you hear Mr. Hicks say anything that afternoon before you men punched out?

A. Yes, I did.

Q. What did Mr. Hicks say?

A. Mr. Hicks told me—I think he was talking directly to me—Mr. Hicks said we would either work, or if I punched out I was fired. I think Mr. Hicks "implored" that directly to me.

Q. Now what was your reason for leaving that afternoon?

A. Because it was too dusty and too hot to work.

Q. Now, while you were working that day I will ask you whether or not you had any occasion to go outdoors?

A. I went outdoors to get a breath of fresh air several times.

Q. And how did the temperature in the air outdoors compare with the inside temperature?

A. It was cooler outdoors than it was in, quite a little.

659

Q. Will you state whether or not any of the other men went outdoors that afternoon?

A. Well, some of them went out, that I saw, Naturally when you are working you don't watch. If it is a man out of your department, or somebody else, you don't watch if they walk through there but I know that some of them went out.

Q. Some of the buyers went out?

A. That's right.

Q. Why did you go outdoors?

A. To get a breath of fresh air, and get out of the dust. To get out of the dust for a few seconds.

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Cross-examination

Q. (By Mr. Langs) . . .

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Q. Now, you have indicated that to some extent you always get some dirt on you in buffing operations under normal conditions, is that right?

A. You get some, yes.

Q. In other words, it is a dirty job at best, is that right?

A. Well, all jobs, you get dirt on, yes.

Q. How black did you get in your operations during this particular day?

A. How black did I get?

Q. Yes. Black or dirty, whatever term you wish to use.

A. It was hot, you were perspiring and dirt would pile up on your arms, and you come to blow your nose with dirty gloves on and you can't do it, and you do this, trying to wipe it off, you can't do it with the dirt sticking on your perspiring arm.

Q. This dust or lint, whatever it was that settled on you, it wasn't white like the Examiner's broadcloth shirt there, was it?

661

A. It was towards a black, and gritty, from the wheel.

Q. Black and gritty?

A. Yes.

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662

DOROTHY CEZIK, a witness called by and on behalf of the General Counsel, being first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Corenman) • • •

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665

Q. What, if anything, did you notice about any pipes around in the buffing room?

A. I noticed there was pipes in front of the sanding machine, but whether they were hot or not, I can't say. But I know when I stood there I stood on a hot pipe in the floor.

Q. Where was that spot located?

666

A. Right beside the back door.

Q. What, if anything, did you do about it?

A. Well, we complained quite a few times, or rather I did, and Mr. Morley said, "Well, that's tough". So we used to put cardboards or boards on the floor, but it was so hot—

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668

DANIEL COLLINS, a witness called by and on behalf of the General Counsel, being first duly sworn, was examined and testified as follows:

Direct Examination

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669

Q. (By Mr. Corenman) Were you formerly employed

by the Knight Morley Corporation?

A. I was.

Q. What was your job there?

A. Janitor.

Q. Are you a member of Local 1125?

A. I was.

Q. Did you walk out on strike on September 30, 1953?

A. I did.

Q. Now, who was your supervisor in the plant? Who did you take orders from in the plant?

A. Herb Hebel.

Q. Herb Hebel, the superintendent?

A. Yes.

Q. Now, after you went on strike did you ever make any endeavor to get back to work?

A. I did.

Q. Will you tell me approximately when that was, and what you did about it?

A. I don't know the date, but it was around the first of the year, I went in and talked to Herb, and he said—

Q. What was the conversation between you and Herb? Herb Hebel?

A. I asked him how was chances to get a job back, and he said he couldn't hire me back yet, not until this thing was over

with.

Q. I am sorry. I didn't hear you.

A. Not until this strike was over with.

Q. Did he have anything else to say?

A. No.

Mr. Corenman: No further questions.

Testimony of Daniel Collins

Cross-examination

Q. (By Mr. Langs) You consider yourself a good union member, Mr. Collins?

A. I think I was.

Q. Now, when you talked with Herb Hebel, as a matter of fact, Mr. Morley was present at that time, too, wasn't he, standing right there with Herb?

A. He was there part of the time.

Q. And you asked Herb at that time when he thought the strike would be over, didn't you?

A. I don't remember that.

Q. And you also stated to him that you hoped the strike would get over soon because you wanted to come back, you were getting lonesome for the place, didn't you make that statement?

A. I might have made it, but I don't recall it.

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671

JESS UNDERWOOD, a witness called by and on behalf of the General Counsel, being first duly sworn, was examined and testified as follows:

Direct Examination

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672

Q. (By Mr. Corenman) Did you make any endeavor to go back to work at Knight Morley Corperation? Did you try to go back to work at Knight Morley?

A. That's right, I did.

Q. On about what date?

A. About between four and four-thirty p.m. the fourth of November I went down there, and there was no picket

line there, and nobody was around, and I went in and talked to Mr. Bernia.

Q. Now, Mr. Bernia is that gentleman sitting there?

A. Yes.

Q. What conversation, if any, did you have with Mr. Bernia?

673

A. Well, I asked him if there was any chance for me to go back to work, there wasn't no more picket line out in front of the place, and I told him I have got a big family and I needed to go back to work, so he told me "Just a minute", and he went back inside and talked to somebody—I presume he talked to Mr. Morley. His car was parked out in front, but I don't know who he talked to.

Anyway, he come out afterwards and told me there was nothing he could do for me. Well, he asked me why I didn't come in when I had a chance, and I said, "Well, the rest of them couldn't get in." They brought a few of them in in the back of their cars, and the police department was down—

Q. No, no. When he told you that, what did you say to him? Are you repeating what you told him?

A. That's what I told him.

Q. What did you tell him?

A. I told him I noticed Mr. Morley and some more of the other people in in the back of the car, and they had to have the Richmond police department down there, and I wouldn't have much chance of going through a picket line by myself. That's what I told him.

Well, he said I could have got through the picket line if I had wanted to, and I said that I didn't feel like fighting my way through a picket line by myself, and nobody ever contacted me to go back to work. I asked him if he had talked to

674

Mr. Morley, and explained the situation, and I said "Maybe Mr. Morley might put me back to work." "Well," he said, "there is no use", that they wasn't putting anybody back, and the best thing I could do was to look for another job.

Well, I told Mr. Bernia—I said, "You know, I am handicapped, and it is pretty hard to go out and find a job", and he said, "Well, you should have thought of that before".

Q. Do you recall anything else that was said by either you or Mr. Bernia?

A. I said something else—oh, I told him my kids, my family, was really hungry. I had to have a job, and he said they couldn't help that. He said, "You can't have your cake and eat it, too".

He said something about me eating a Thanksgiving Dinner right over there in the tent.

Q. What did he say?

A. The first part he told me, he seen me down around the picket line every day. Well, I was down there every day, but Mr. Bernia never seen me carrying a picket sign.

Q. No, just a minute. Just repeat the conversation. You say Mr. Bernia said he saw you on the picket line?

A. Yes.

Q. What, if anything, was your answer to that?

A. That's what I answered him.

Q. What was your answer?

675

A. What?

Q. What was your answer?

A. He never seen me carrying a picket sign.

Q. Okay. Now, when he referred to someone eating their Thanksgiving dinner under the tent, what tent was

he talking about?

A. Beg your pardon?

Q. When he referred to eating Thanksgiving dinner under the tent, what tent was he talking about?

A. They had a tent across the road in the field, and coffee and doughnuts there.

Q. Who did he say would be eating their dinner under the Thanksgiving tent? Who?

A. Who did he say?

Q. Yes.

A. He said the union, • • •

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Trial Examiner: Strike out the words after "you", y-o-u. I understood the witness to say, in answer to the question as to what Mr. Bernia said, the witness answered "you", as I interpret it, meaning him, the witness, and then he started on the rest of this conversation which has been stricken, so as I

676

understand the record now, the witness has answered that Mr. Bernia replied "You", and his answer, as I understand it, that you meant him, the witness.

Mr. Corenman: Yes, that was my understanding, too, Mr. Examiner.

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698

TRANSCRIPT OF TESTIMONY
August 17, 1954

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700

Mr. Corenman: Mr. Examiner, after the close of the hearing yesterday, Mr. Langs and I reached an agreement for a stipulation on the strikers involved in the September 30th strike. My understanding of the stipulation is this, that it will be stipulated that all of the employees named in Appendix B, attached to the Complaint as we have amended it were engaged in the strike, the September 30th strike and that the Company sent the October 1st letter to all of the strikers. By that I mean the letter identified in the exhibits as General Counsel's Exhibit 9, sent that October 1st letter to all of the strikers named in Appendix B, with the exception of Lottie Garlick. Am I correct on that?

Mr. Langs: That is correct.

Trial Examiner: With the exception of whom?

Mr. Corenman: With the exception of Lottie Garlick. Her name appears in the first column, the second name from the top on Appendix B.

Mr. Langs: As to Lottie Garlick, she was on leave and did not return. Anna Carpenter was on leave and did not return.

Trial Examiner: Anna Carpenter?

Mr. Langs: Anna Carpenter was on leave and did not return, about halfway down the middle column.

Trial Examiner: Column 1?

Mr. Langs: Column 2.

701

Mr. Corenman: The eleventh name from the top in the middle column.

Mr. Langs: And she did not return. We have stricken from Appendix B, other names who were on leave, and received notice and did return to work.

Trial Examiner: Have you stated your stipulation?

Mr. Corenman: I don't believe the last statement—the names that we struck, we struck on the basis of either there was a duplication or we found out they weren't engaged in the strike, the reason we struck.

Trial Examiner: That motion to strike was granted.

Mr. Corenman: That was the one I made yesterday before the close of the hearing and that motion was granted, that's right.

Trial Examiner: Then there was a motion to amend Appendix B made by the General Counsel on which I am yet to rule.

Mr. Corenman: The motion to add certain names. I thought that was granted.

Trial Examiner: No.

Mr. Corenman: It wasn't?

Trial Examiner: No.

Mr. Corenman: The names I requested—

Trial Examiner: They are already in the record, the proposed motion to amend and at that time the discussion arose between counsel that led to this stipulation or attempted stipulation.

Now I take it that there is no objection to General Counsel's

motion to add certain names to Appendix B as stated in the record yesterday afternoon?

Mr. Langs: No objections.

Trial Examiner: General Counsel's motion to amend Appendix B as stated is granted.

Now do I understand it, that upon the basis of Ap-

pendix B as now amended there is no controversy between counsel as to whether or not those named in Appendix B as amended participated in the strike?

Mr. Corenman:: That's correct, that's my understanding.

Mr. Langs: That's my understanding.

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703

CLARENCE BANTIEN, a witness called by and on behalf of the General Counsel, being first duly sworn, was examined and testified as follows:

Direct Examination

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704

Trial Examiner: On the record.

Q. (By Mr. Corenman) Mr. Bantien, when did you first start working for the Knight Morley Corporation, about what year?

A. I can't just exactly tell you what year it was. That I couldn't tell you.

Q. About how many years have you worked for them off and on?

A. Altogether between six and seven years.

705

Q. Now, were you formerly employed there as a buffer and polisher?

A. No, I was coloring shells.

Q. You were coloring shells?

A. The first time.

Trial Examiner: The first time.

Q. (By Mr. Corenman) Is that coloring shells on that automatic?

A. No, by hand, after they come off the automatic.

Q. Now, how long did you work on that job, approximately?

A. I was on that for pretty near five years.

Q. Was that work in the buffing room?

A. Yes.

Q. Now, after that time did you quit your employment with the company? Is that right?

A. I did.

Q. Did you later return to the company on a later date?

A. Just what do you mean?

Q. After you quit did you go back again to work?

A. I was gone for pretty near a year, and then I went back there to work again.

Q. What job did you work on when you went back to work again?

A. Back on the buffing, coloring shells, for a while.

Q. Then what was done with you?

A. I was out on the assembly line, stock chaser, for about six months or so.

706

Q. After you worked as a stock chaser on the assembly line, what job were you put on?

A. I went in the die cast room.

Q. The die cast room?

A. Yes.

Q. About how long were you working in the die cast room?

A. Right around close to a year.

Q. What was your job in the die cast room?

A. Operating a die cast machine.

Q. Were you in the die cast room at the time you went on strike on September 30th?

A. I was.

Testimony of Clarence Bantien

Q. Now after you went on strike did you at a later date attempt to go back to work?

A. I called in and asked them if I could come back to work.

Q. Who did you talk to?

A. I talked to Bill Hicks.

Q. Approximately what date was this?

A. Around about the 9th of January.

Q. Tell us the conversation that you and Mr. Hicks had?

A. I asked Mr. Hicks if Mr. Morley was there and he said yes, and if I could talk to him, and he said just a minute. He said what do you want, and I told him, and he said just a minute and in a minute or two he come back and he says, "Mr. Morley can't talk with you, and that I should tell you he will not take anybody

back until this thing is settled.

Q. Mr. Hicks is the night superintendent, is that right?

A. The afternoons.

Q. The afternoon superintendent. Now do you recall August 31, 1953, that is, do you recall the occasion where the afternoon buffers left early?

A. I remember them leaving.

Q. Did you work that afternoon?

A. I worked until five o'clock and I went to Bill Hicks and told him I was going to leave and go home, it was awful hot back there and I couldn't stand it, that I would be back the next day and Bill Hicks says okay.

Mr. Langs: What day was this again?

The Witness: What?

Mr. Langs: What day was this?

The Witness: The same day the buffing room guys went home at 5:30.

Testimony of Clarence Bantien

Q. (By Mr. Corenman) What time did you start work that day, August 31st?

A. About 3:30.

Q. What kind of a day was August 31st?

A. It was a real hot day, I know that.

Q. You know whether or not we had other hot days in that spell there?

A. Oh, yes, there was a few other hot days, too.

708

Q. How did August 31st compare with the other days?

A. Well, there was some of them pretty close to that day, about as hot.

Q. On this afternoon of August 31st you say you asked Bill Hicks?

A. I did.

Q. To go home?

A. I did.

Q. And he let you go home?

A. He let me go home.

Q. Now I am asking you this again because I didn't hear you very well. What did you tell Bill Hicks that day when he let you go home?

A. I just told Bill, I says it is too hot back there and I can't stand it, and I would like to go home and he says, "Go home," and he says, "Be back tomorrow," and I said yes.

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Cross-examination

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711

Q. (By Mr. Langs) Now, Mr. Bantien, you have stated that August 31st was a hot day. Do you have any idea as to how hot it was?

A. No, I couldn't tell you because I didn't look at the

thermometer.

Q. Did you notice the difference between the heat in the building and the heat outside the building?

712

A. Yes, sir.

Q. And what in your opinion was the difference between the heat in the building, and the heat outside the building?

A. I think it was a lot hotter back there in the building than it was outside.

Q. When you say back there, you mean back in the die cast?

A. Back in the die cast room.

Q. Now isn't it true, Mr. Bantien, that the die cast room probably is the hottest room in the building?

A. Yes.

Q. And the reason for that is what, would you say?

A. You mean the reason for it being so hot back there?

Q. Yes, why is the die casting room ho ?

A. You have so much fire and all your hot metal back there and stuff, and with the heat outdoors it makes it awful hot in there.

Q. You have a furnace, a melting furnace that sets in right adjacent to the die cast machine, right?

A. Yes.

Q. And you have a melting pot in each die casting machine?

A. Yes, sir.

Q. And the melting temperature that you have to maintain is constantly 825 degrees, isn't that correct?

A. Yes, sir.

Q. So that the die casting room on that day would certainly be much hotter than the buffing room?

713

A. That's right.

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716

MILFORD C. BERNIA, a witness called by and on behalf of the Respondent, being first duly sworn, was examined and testified as follows:

Trial Examiner: May I have your name and address, please?

The Witness: Milford C. Bernia.

Direct Examination

Q. (By Mr. Langs) * * *

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717

Q. Are you familiar, Mr. Bernia, with the picket line maintained by the striking employees?

718

A. Yes, I am.

Q. For how long a period did employees participate in the picket action or appear in front of the building or the plant at Knight Morley Corporation, up until approximately what time?

A. From September 30th until some time in May of 1954.

Q. Now would there be large numbers of pickets or were there large number of pickets at the tail end of this period up to some time in May, or how many were there?

A. There were small pickets, a small number of pickets towards the end of May or in the month of May. There would probably be one or two people.

Q. Were there any days on which no pickets would show up?

A. Yes.

Q. Then as I understand your testimony the last picketing occurred some time in May?

A. Right.

Q. Do you know Jess Underwood?

A. Yes.

Q. Did Jess Underwood ever come in and talk with you after the strike of September 30th?

A. Yes, he did.

Q. What conversation did he have with you and you with him?

A. Well, Mr. Underwood came into the lobby of the office and asked to see me, and I went out to talk with him and he asked me if there was any chance of him coming back to work, that he had

719

several children to feed and that he needed his job, and I asked Mr. Underwood, in fact before he came into the office I had observed that he was picketing out in front of the plant.

Q. Was that the same day that he came in?

A. Same day that he came in.

Q. All right.

A. And I asked Mr. Underwood why he didn't come back in when the Company offered to—offered him to come back for his job by October 5th, and he told me that he couldn't get through the picket line, and I said, "Well, Mr. Underwood, I see you are one of the most faithful pickets out there every day," and he said, "Well, no, he wasn't picketing, he was just out there with them; they wouldn't let him through the line." At the time I told him there was nothing I could do for him, that he would have to see Mr. Hebel who had hired him about coming back to work.

Q. Mr. Bernia, how long have you been with Knight

Morley Corporation?

A. It will be nine years this coming February.

Q. During that period of time have you had occasion to walk through the buffing room and into the other rooms or departments of the business?

A. Yes, many times.

Q. Have you had occasion to be in the buffing room during the summer months on hot days?

A. Yes.

720

Q. Have you had occasion to go from the buffing room to the outside, outside the buffing room out of the building?

A. Yes.

Q. Have you had occasion to observe the temperature conditions in the buffing room with those outside the buffing room, outdoors on those occasions?

A. By observe do you mean—

Q. The difference between the inside temperature and the outside?

A. Yes.

. . . . . .

Q. (By Mr. Langs) Will you state what you have observed, and your opinion as to the difference between the inside temperature and the outside temperature on those occasion?

A. My opinion it is close to the same with possibly a variance of one or two degrees.

. . . . . .

721

Cross-examination

Q. (By Mr. Corenman) Mr. Bernia, you say that Jess Underwood came in to see you one day about going back to work, is that right?

A. Yes, sir.

Q. And you knew Jess Underwood, you knew who he was?

A. Yes.

Q. What job did he used to have with the Company?

A. I believe he worked in the plating department.

Q. What kind of work did he do in the plating department?

A. I believe he was on what we call the catwalk.

Q. On the catwalk?

A. Which is transferring plating from one tank to another.

Q. Now on that day did you call Mr. Hebel, call him out and have him talk to Jess Underwood?

A. No, I didn't. Mr. Underwood didn't ask to see Mr. Hebel. He asked to see me when he came in there.

Q. And your job is office manager and you keep the records of all of the employees, is that correct?

A. That's correct.

Q. When a man comes in looking for work, what do you usually do?

A. That is not under my jurisdiction. The hiring of the plant

is done by Mr. Hebel. I have nothing—

Q. If a man comes in to see you about a job, what do you do with him?

A. I don't believe I have had the occasion outside of Jess Underwood that anyone has come in to ask me for a job for the plant because I have nothing to do with the plant. I am strictly in charge of the office, and that is as far as I go.

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Testimony of Charles E. Morley

729

CHARLES E. MORLEY a witness called by and on behalf of the Respondent, being first duly sworn, was examined and testified as follows:

Direct Examination

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730

Q. (By Mr. Langs) How long have you been engaged in business wherein you have made use of buffing and polishing as a part of the production of your products?

A. Approximately 20 years.

Q. During that period of time have you had occasion to be in not only your own buffing and polishing department of your own company but the buffing and polishing companies of vendors who supplied you with buffing and polishing?

A. Yes, I have been in many plants.

Q. Now on the—in your opinion and your observation, is the buffing and polishing operation one wherein it is a clean opera-

731

tion, where you get lint or dirt which is as white as the Examiner's white shirt, or does it create other color?

A. Well, I would say generally speaking in any buffing and polishing operation, it results in the person who is engaged in that occupation becoming what we would describe as dirty or darker in color, rather than lighter in color.

Q. Now were you at the plant on August 31, 1953?

A. I was.

Q. Did you have occasion to observe the temperature that day in the buffing room and outside the buffing room, outside the building?

A. Yes, I was both places several times during the day.

Q. And around the time when the buffing department, the afternoon shift went to work on the afternoon of August 31st, 1953, do you have an opinion as to the temperature outside, not in the buffing room, but outside the buffing room?

A. Yes, I didn't directly check a thermometer at that time but I knew it was a warm day and I would estimate it was some where in the nineties.

Q. Now did you have occasion in your travels through the plant that day to go from inside the building to outside the building?

A. Yes, several times.

Q. What did you observe as the difference in temperature inside the building as compared outside the building? Was it greater or less?

732

A. Well, some portions of that building in my estimation were cooler inside than they were outside, not to a very great degree, but due to the fact that sunlight was not directly on objects in the building, and was very evident on the outside I believe the inside of the building was possibly a degree or so cooler than the outside of the building in most departments.

Q. Now with respect to the buffing department, what would your observation be on that?

A. At any specific time?

Q. At three o'clock or thereabouts when they started to work?

A. I believe at that particular time the buffing room was undoubtedly cooler than the outside temperature.

Q. Why do you make that observation?

A. Because there had been very little activity of any type in that buffing room from approximately nine o'clock

in the morning. Very few employees had been engaged to clean that particular room—the room was open, very well ventilated, and it is my opinion that just the air circulation and so forth through that room would make it possibly one of the coolest rooms in the entire plant.

Q. Now did you have an occasion to observe the temperature around five o'clock or 5:30 in the afternoon when this problem arose that is one of the issues in this particular case?

A. I didn't consult a thermometer but I was aware of the temperature at that time.

Q. Had the temperature gone up or gone down by 5:00 or 5:30?

733

A. The temperature had very definitely dropped.

Q. And approximately how much had it dropped?

A. Well, approximately around that time, it would be my observation that the temperature dropped probably as much as 18 or 20 degrees.

(Thereupon the document above referred to was marked Respondent's Exhibit No. 3 for identification.)

Mr. Langs: At this time I have had marked as proposed Respondent's Exhibit Number 3, the United States Weather Bureau report covering the days of August 31, 1953 and September 1, 1953, the appropriate certification attached thereto which pursuant to the laws of the United States makes this document receivable in evidence. I offer it into evidence.

Mr. Corenman: We object to its introduction in evidence on the grounds it is immaterial. This purports to be a weather report for the Detroit area. Richmond is situated some 45 miles from Detroit. I can't see where it is relevant.

Testimony of Charles E. Morley

Mr. Langs: This covers, Mr. Examiner, the only weather station where official reports are issued, and they issue them from the City Airport in Detroit, which is out Gratiot, partly out to Richmond and Richmond is not 45 miles from the City Airport. It is only a matter of probably twenty some miles and the Willow Run Airport is the other corresponding official weather station in this part of the country, and both of them are there so it can be definitely determined the weather and flow and directions of the

734

weather on that day. It is very very important in this case.

Trial Examiner: This weather report is received in evidence. I note—it is received in evidence as Respondent's Exhibit 3.

(The document heretofore marked Respondent's Exhibit No. 3 for identification, was received in evidence.)

Trial Examiner: I note it is for the Detroit, Michigan area at the City Airport. This report states it is an elevation of 619 feet. The value of this evidence, of course, is something to develop. How relevant it may be with respect to an area approximately 20 miles from the airport—I understand you have no objection to that approximation?

Mr. Corenman: I don't know. My judgment it is further. I would say it is closer to 30 miles from the airport to Richmond.

Trial Examiner: There is that question.

Mr. Langs: The man on the witness stand is competent to give us an idea as to the distance between Detroit and Richmond. I dare say he has driven it hundreds of times.

The Witness: That requires a little difficult calculation. I have been driving it almost daily for quite some number of years.

Testimony of Charles E. Morley

Q. (By Mr. Langs) How many miles is it?

A. From various portions of Detroit, of course the mileage differs. From my home and my former home it was approximately 29 to 30 miles. That is i would say five or six miles farther from Gratiot Avenue, a direct line to Richmond than the City Airport.

Mr. Corenman: How far—well, go ahead. I will take it on

735

cross or rebuttal.

Mr. Langs: I would like the record to show Respondent's Exhibit 3 consists of five pages, and also that the August 31st, 1953 report of temperatures by the hour shows 96 degrees Fahrenheit on August 31st, 1953, at 2:00 p.m., 95 degrees at 3:00 p.m., 88 degrees at 4:00 p.m., 76 degrees at 5:00 p.m., 75 degrees at 6.00 p.m., and also that the wind direction on August 31st at the hour of 7:00 p.m., which is the closest time reported is from an east north-east direction, and that was the information from the City Airport, which lies approximately 40 or 45 miles east of Willow Run.

The official Willow Run temperature on August 31, 1953, at 2:00 p.m. shows 96 degrees, 3:00 p.m. 89 degrees, 4:00 p.m. 83 degrees, 5:00 p.m. 80 degrees and 6:00 p.m. 77 degrees, and 7:00 p.m. 74 degrees.

Trial Examiner: Can counsel stipulate on the location of Richmond, Michigan, with reference to the airport? By that I mean is it north, south or what?

Mr. Langs: It lies northeast. Gratiot runs in a northeasterly direction.

Mr. Corenman: That's right.

Trial Examiner: Very well. Can counsel stipulate as to what elevation if any there is as far as Richmond, Michigan is concerned?

Mr. Langs: We can get that information for the Examiner at

736

noontime. My guess is and strictly a guess at this time that the elevation between the City Airport and Richmond would not be too much difference. There would be some but it would not be too great. The area of Michigan lying in this particular section running from Detroit up to Mt. Clemens and Port Huron and along the river is very notoriously flat, and is not subject to any high elevations. Following the stream of the river, the Detroit River and Lake St. Clair, and St. Clair River up through that direction it is conceivable there would be a small amount difference in height, but not too great. We can get the exact elevation at lunch time.

Mr. Corenman: I haven't checked into that, Mr. Examiner, but I don't dispute it. I don't imagine there is much difference between the elevation at City Airport and the elevation of Richmond. It must be a very small difference.

Trial Examiner: Well, I will leave it to counsel. If either one of you think it is material then supply it. If you don't, don't supply it. If you think it is material supply it, in the exact form, if you can get a United States Geodetical Survey Map or some such matter.

Mr. Langs: I am sorry for the delay. Mr. Bernia is going out to get those records.

Q. (By Mr. Langs) Now, Mr. Morley, I believe you stated now that in your opinion or observation that the temperature at Richmond between three o'clock and 5:00 or 5:30 had dropped approxi-

737

mately 18 or 20 degrees. That's where we left off, I believe.

A. That is correct.

Q. Now at that time at five o'clock or thereabouts, 5:30 or around that time, did you have an occasion to be in the buffing room at the plant?

A. Yes, I did.

Q. And were the doors and windows open?

A. Yes, I believe just about everything that could be open was open.

Q. And the big 24-inch fan was operating?

A. I can't state positively whether it was operating right at three o'clock.

Q. I am talking about five o'clock.

A. Later I am positive it was operating, yes.

Q. Now that fan is a fan similar to this one which is here in the room, a little different form of blades, but it is a large fan sitting on a pedestal and which sits up quite high?

A. That is correct, it is quite similar to the fan in this room except I believe it has four blades rather than three.

Q. And a little different shape blades?

A. Yes, a slightly different shape blade. Undoubtedly a different manufacturer but very similar.

Q. Did you see Mr. Harsch on the afternoon of August 30th about 3:00 p.m.?

A. The 30th?

Q. August 31st?

A. Yes, I did.

Q. That was before the afternoon shift commenced their operations?

A. That is correct, approximately half an hour before.

Q. And what was the conversation which you had with Mr. Harsch or Mr. Harsch had with you at that time? First of all, where did it take place?

A. It took place, not in the buffing room but rather out in the plant. As I recall it in the approximate vicinity of the plating, between the plating and tumbling departments.

Q. Now, what did Mr. Harsch have to say to you and what did you say to Mr. Harsch?

Testimony of Charles E. Morley

A. Mr. Harsch brought up the question of Mr. Puente and asked if I didn't feel that Mr. Puente could be returned to work. I told Mr. Harsch that I thought that before we could take any stand on that, that—regarding any change in our original opinion that it would be necessary to have some information and so forth. If Mr. Puente would care to submit anything in his own behalf or if the Union Committee could submit anything in Mr. Puente's behalf, I would certainly be very pleased to discuss the matter with them. However, I pointed out to Mr. Harsch that any such discussion would have to be at the meeting to be attended by the Union Committee because the contract so provided. I was to negotiate with them on such matters.

739

Q. Was anything further discussed about the Puente situation at that time?

A. Well, I think generally speaking, that was the gist of the conversation.

Q. Now what else did Mr. Harsch talk to you about with respect to the buffing room?

A. Mr. Harsch asked my opinion whether or not the day was hot, if we had put in a hot day, and Mr. Harsch said he thought it was too hot a day to work and during the course of the conversation Mr. Harsch asked whether or not I would be willing to send the afternoon buffing shift home. It seems that he had become aware of the fact that the day shift had only worked, that is the majority of the day shift had worked for a period of a couple of hours only and he asked me if it wouldn't be possible in view of the fact it was a hot day to send the buffing room group home on the afternoon, also, after they had worked approximately the same amount of time as the day shift, and my opinion as expressed to Mr. Harsch was that I didn't think that would be practical. It was not necessary. The buffing room

had been down during the day simply to afford an opportunity to have it thoroughly cleaned and renovated and to get it back in condition for the afternoon shift.

I also advised him that it was unfortunate that we had to, due to the lack of cooperation of the various employees' parts in refusing to work on Saturday to clean it, it was unfortunate

740

we had lost production during a portion of the day, and production was lost due to the fact by so doing we were being faced by a shortage of material in various stages that might possibly hinder our production for several days hence. I told him it was very necessary in my opinion that we operate the buffing room that night in order to get various parts through for the plating department so they could be plated overnight so we could continue to operate in the other departments the following day, and that if we did not get the material through it would cause a disruption in the plant and possibly make it necessary for us to discontinue operations in other departments, at a later time.

Q. Had any other department informed you that they did not want to work that day, that afternoon?

A. No, neither that afternoon nor that day.

Q. Did the afternoon departments other than these employees in the buffing room that walked out, did the other departments work?

A. Yes, they did, and also after these employees walked out I instructed supervision to take other employees as provided for under the contract, transfer them from other departments into the buffing room because it was essential that the buffing room, that certain machines at least in the buffing room operated that night.

Q. You transferred how many, two, three?

A. I am not positive without referring to the record

but it is my recollection we transferred either two or three people.

Q. Did they finish out the shift?

741

A. They finished out the entire shift.

Q. Did they present any complaints to you?

A. None whatsoever.

Q. Now, on the morning of August 31st, was that a warm day, was that warm, also, in the morning of August 31st?

A. Yes, it was. It was warm during the entire day. However, earlier in the morning it was not as warm as it later became.

Q. Was any complaint made to you, or did any complaint come to you in the form of any grievance about the employees that worked on the day shift of August 31, 1953 with reference to any problem in the buffing room?

A. None whatsoever.

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761

Q. Now, yesterday we had an exhibit, General Counsel's Exhibit Number 29, introduced by Doctor Fredrick, and he spoke concerning certain toxic materials, lead, cadmium and bryllium. Did you engage in the buffing of any lead, cadmium or beryllium items on August 31, 1953 or September 1, 1953 or in that particular period of time?

A. No, we did not.

762

Q. Have you ever engaged in the buffing of any of these so-called highly toxic materials?

A. No, we have not.

Q. That's at any time?

A. At any time.

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Testimony of Milford C. Bernia

770

MILFORD C. BERNIA a witness recalled by and on behalf of the Respondent, having been previously duly sworn, was examined and testified further as follows:

Direct Examination (Continued)

Q. (By Mr. Langs) * * *

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771

Q. Now at this time from the records which you have in your possession, the time cards and the piece work rate sheets, and the computations which you have made, what is the average piece work rate for the day shift buffers on August 26, 1953?

A. $2.40 an hour.

Q. What was the average piece work rate for those buffers working on automatics that day?

A. $2.23.

Q. Now did you have a computation which you have made for the day shift buffers on August 27, 1953?

A. Yes.

Q. What is the average piece work rate for those buffers on the days they worked on August 27, 1953?

A. $2.58.

Q. Was anyone engaged on automatics that day?

772

A. Yes.

Q. What was the average for the automatic?

A. $2.12.

Q. Now have you compiled an average of the piece work rates for the day shift buffers for the day August 28th?

A. We have.

Q. What is the average piece work rate paid to the

buffers for August 28, 1953?

A. $2.25.

Q. Now have you compiled the day shift average for the buffers on September 1, 1953?

A. I have.

Q. What is the average piece work rate paid to the buffers on September 1, 1953 for the day shift?

A. $2.57.

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773

Cross-examination

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Trial Examiner: Mr. Bernia, were these averages you have given for instance $2.40 per hour on August 26th, $2.58 per hour on August 27th and $2.25 on August 28th and $2.57 on September 1st. How many hours did you use in arriving at that average?

The Witness: We used all of the hours that was worked on piece work that particular day.

Trial Examiner: Well, how many was that?

The Witness: On August 26th, for example, $2.40 an hour, there were 84½ hours considered in that.

Trial Examiner: For how many men?

The Witness: Fourteen men.

Trial Examiner: The same question for August 27th with reference to the $2.58 average?

The Witness: There was 84¼ hours for 13 men.

Trial Examiner: August 28th, $2.25?

The Witness: 105 hours and 15 minutes for 15 men.

Trial Examiner: September 1st with reference to the item of $2.57?

The Witness: There were 96¾ hours for 15 men.

Testimony of Milford C. Bernia

Trial Examiner: How many hours did you work that day on that shift?

The Witness: We worked eight-hours shifts on those particular days. However, this time that we have given you is the only time they worked on piece work. In other words, during the eight hours a man might have worked two hours on piece work and six

778

hours on day rate. We have given you the piece work computation.

Mr. Langs: On the day rate, Mr. Bernia, you get paid what rate?

The Witness: If you were getting tops in the department it would be $1.63 an hour.

Mr. Langs: They would get their day rate for the hours they worked on day rate work?

The Witness: Right.

Mr. Langs: For the hours they worked on piece rate work they would get the piece work rate?

The Witness: That's right, or at least $1.63.

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783

Q. (By Mr. Corenman) Mr. Bernia, will you produce your figures on the piece work for the afternoon shift of August 31, 1953?

A. I have it.

Q. Am I correct in stating that the average piece work for the afternoon shift of August 31st was $1.95 per hour?

A. That's correct.

Q. Thank you.

Mr. Langs: How many hours, Mr. Bernia?

The Witness: Four and one-quarter hours.

Mr. Langs: For how many employees?

The Witness: Three employees.

Testimony of Milford C. Bernia

Mr. Langs: How many were on that afternoon shift?

The Witness: Fifteen men.

Trial Examiner: I am confused by your last answer. You said four and a half hours?

The Witness: Four and a quarter hours, three men working piece work, and there were 15 men on the shift. In other words, twelve men were working hourly rate and three men were working piece work at the time.

784

Mr. Langs: Are you through, Mr. Coreman?

Mr. Corenman: Yes, that's all I have.

Mr. Langs: I want to cover this one item.

Trial Examiner: Just a moment, maybe you are thinking of the same thing I am. There was testimony here that after the men walked out, some men walked out on the August 31st afternoon shift, others were brought in, some were brought in who continued to work. Is the work of the men who worked in the buffing room after the others walked out around 5:30 contained in these figures?

The Witness: I don't believe they are.

Redirect Examination

Q. (By Mr. Langs) Would they be on day rate?

A. They would be on day rate because they would be transferred from some other department.

Q. So they would not show on any piece work schedule?

A. That's right.

Q. Now, Mr. Bernia, referring to the three employees that were working on piece work on the afternoon shift of August 31st, will you give the names and number of hours and the average which those three employees attained?

A. There were three men. Tommassewski worked one and three quarters hours average at $2.10.

The next one was Donald McCue; he worked one and

three quarters hours average 67 cents.

785

Q. Now in that instance although he averaged 67 cents for that period of time he would get his day rate because it would be more than the piece work rate?

A. That's right.

Q. Now what is the next one, the third one?

A. William Egert, one and three-quarter hours averaging $2.36.

Mr. Langs: That's all.

Recross-examination

Q. (By Mr. Corenman) Now, looking again at your afternoon shift they all worked one and three-quarter hours, is that right?

A. That's right.

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CHARLES E. MORLEY a witness recalled on behalf of the Respondent, having been previously duly sworn, was examined and testified further as follows:

Direct Examination (Continued)

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790

Q. (By Mr. Langs) Now, Mr. Morley, referring again to R-12, where is that room, the buffing room, located with reference to the building? That is what part, is it in the south side, east side, west or what?

A. The extreme northeast corner.

* * * * * * *

792

Q. Now I would like to take up on a few items, one item

I was thinking about at lunchtime that I don't know whether we have properly covered or not, and that is the distance of the Willow Run Airport from the City Airport in Detroit and its general direction. Mr. Morley, do you have any idea as to the general direction of the Willow Run Airport from the City Airport in Detroit?

A. Yes, it would be in a westerly direction.

Trial Examiner: Excuse me, are there two airports?

Mr. Langs: Yes, the City Airport—the weather report shows the weather conditions at the City Airport, and also at Willow Run and I got them both to show the weather was moving from east to northeast direction to a west-southwest direction, and the cold front passed over the Detroit City Airport first and an hour or so later the drop appeared at Willow Run which the weather report shows and I simply want to put in the record here the general direction of the Willow Run Airport where the other reading was made.

Q. (By Mr. Langs) Mr. Morley, approximately—strike that, please. Have you driven out to the Willow Run Airport on any

occasion?

A. Yes.

Q. Have you any opinion as to approximately the distance from the City Airport to the Willow Run Aairport?

A. I would think it would be very close to 50 miles, between 40 and 50 miles.

Q. Between 40 and 50 miles?

A. Yes.

Trial Examiner: I would like to have an idea of the relative positions of these three places, City Airport, Willow Run Airport and the Respondent's plant at Richmond, do they form a triangle or are they all in one straight

line, right angles?

That is a question I have in mind.

The Witness: Generally speaking I would say they would run in more or less a straight line. Richmond, the town of Richmond where our plant is located is a matter of a very short distance off of Gratiot Avenue which is the street in front of this building and which progresses directly to down to in Detroit. At approximately—City Airport is located, a portion of its borders directly also on Gratiot Avenue. That is one side of it is on Gratiot Avenue, and after you continue down Gratiot Avenue to Woodward Avenue in Detroit there is a street that comes in to almost the same point at Woodward Avenue as Gratiot. That is Michigan Avenue. Detroit downtown is something like the spokes of a wheel, similar to Washington, and Michigan Avenue goes directly out from the hub

794

of this spoke, and as you continue out Michigan Avenue you hit Willow Run Airport or Willow Run Highway which veers off towards the south off of Michigan Avenue and following that direction you come to Willow Run.

* * * * * * *

Q. (By Mr. Langs) Now, Mr. Morley, you mentioned earlier this morning, Mr. Morley, that you had a certain conversation with Mr. Harsch, about one Puente, and as I recall you indicated you desired to discuss the matter further at a meeting of the bargaining committee

795

and then we got off into something else, and we never finished that particular line. Did you thereafter have any discussion, negotiation with the bargaining committee of the Union about Puente?

A. Yes, we did have a meeting, subsequent to that time, or following that time in which Mr. Puente was present,

and which time he endeavored to state his case more or less.

Q. What did he say or what did the committee members say, and what did you say about the case?

A. Well, Mr. Puente made the statement that when he left he went home and due to some condition on the road or some repair condition I believe he told us that was happening in the vicinity of his house it was necessary to push one car and I believe that he made the statement that both of these cars were his off the road towards the back yard and in so doing he had damaged a headlight on his car, and he stated that that was his reason for not returning.

Q. How far was his home from the plant?

A. Mr. Puente's home, I clocked it on my car, shows exactly five tenths of a mile.

Q. Now, was there any comment which he made at that time in this bargain session about the Union?

A. Yes, I had also been informed while Mr. Puente was not able to return to the plant a matter of half a mile, I had been informed by another employee in the plant that that same night he witnessed Mr. Puente attending a fair adjacent, in an adjacent town, the fair

wasn't exactly in town, but slightly out of town, and I believe that is a distance of some nine miles from Richmond, approximately nine miles.

Q. As a result of this negotiation between yourself and the bargaining committee did you determine to take Mr. Puente back?

A. No, I felt if Mr. Puente, violating the rule which had been posted on leaving and making no endeavor to come back, I felt if Mr. Puente had wished to come back it certainly would have been no problem in his navigating that half a mile on foot, even though he might have appeared

late he could have definitely come back and finished his job.

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797

Mr. Corenman: Oh, yes, I am sorry. I agree with that.

Q. (By Mr. Langs) Now, Mr. Morley, on September 1, 1953, did

798

you make a test of the blower with respect to the time when the wires were in one position on the control box, and when they were reversed in another position on the control box, and the time the change was made? Did you make a test of the blowers by holding any object or anything?

A. Yes, I did.

Q. Did you make that test while the wires were in both positions, that is in one position and then changed to another position?

A. Yes.

* * * * * * *

Q. (By Mr. Langs) Mr. Morley, what test did you make on the blowers at that time?

A. I placed a shell in one of the openings, one of the hoods.

Mr. Corenman: What time are you speaking about?

Mr. Langs: The time the change was made.

The Witness: At the time of the change.

Q. (By Mr. Langs) Some time around 3:00 or 3:30 or a little after that on the afternoon of September 1st?

799

A. That's right.

Trial Examiner: What did you say you did?

The Witness: I placed a mirror shell which is a portion, a back behind a mirror, a kind that we made in one of the openings of one of the jacks, the hoods, and in both instances with the fan going in either direction the shell was

lifted from my hand and pulled into the pipe. I held it out with my hand in front of the opening and it took it into the opening.

Q. (By Mr. Langs) You held it right up to the opening?

A. Yes, I held it right up to the opening.

Q. In both instances?

A. That is correct.

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802

Q. (By Mr. Langs) Did you, Mr. Morley, tell Mr. Harsch, or Mr. Kelly, or anyone else, at any time, that you would put Mr. Puente back to work?

A. No, I never did; definitely not.

Q. Were you ever informed that Mr. Harsch told the men on the afternoon of August 31, 1953, to shut down their machines?

803

A. Yes, I was.

Mr. Corenman: I move that that statement be stricken unless the time and place and the person who made the statement is shown.

Q. (By Mr. Langs) Who made the statement to you, Mr. Morley?

A. A man by the name of Harvey Schultz.

Q. Is he a buffer?

A. Yes.

Q. Is he on the afternoon shift?

A. Yes.

Q. That is on August 31, 1953?

A. Yes.

Q. And one of the parties involved in this controversy?

A. Yes.

Mr. Corenman: I move the statement be stricken as hearsay.

Mr. Langs: That is certainly a definite indication by a person who knew of the concerted action.

Mr. Corenman: That is hearsay. This witness hasn't been here and testified to that fact.

Trial Examiner: What was it he said to you, told you?

The Witness: He told me that at the time this strike occurred, this wildcat strike occurred, he told me at a slightly later date, when he came into the plant that it had not been his intention to leave, he didn't wish to leave. Mr. Harsch told him to shut his machine down or he would shut it down for him.

Mr. Corenman: I move the answer be stricken as hearsay.

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805

Trial Examiner: The objection is sustained.

Mr. Langs: May I make this observation?

Trial Examiner: You want to produce proof?

Mr. Langs: I understand that but Mr. Corenman was permitted to put in testimony as to statements made between the parties, that is members of the Union and employees on the specific days when they indicated certain positions and comments and rumors and what have you.

Trial Examiner: Yes, sir, that was not binding in any way on the Respondent.

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808

Q. Now, this morning Mr. Bernia was asked certain questions about certain employees and whether those employees were required in a particular department. Mr. Morley, will you define the duties of Mr. Bernia?

A. Mr. Bernia is general office manager, and purchasing agent, and it is his function to keep track of various records. Under his direction the payroll is computed and

things of that nature.

Q. Does he have anything to do with hiring and firing people?

A. Not with the exception of the office itself.

Q. Outside of the office, I mean out in the plant?

A. No.

Q. Does he have anything to do with the plant?

A. No.

Q. And does he have anything to do with determination of what employees are required for a particular department in the plant?

A. None whatsoever.

809

Q. I am always excluding the office.

A. None whatsoever.

Trial Examiner: We will take a short recess at this time.

(Recess.)

Trial Examiner: Come to order.

Q. (By Mr. Langs) Mr. Morley, you described this chrome buffing operation to some extent but one item that you have not covered was the question of the amount of pressure required, large or small, big or small, in such chrome buffing operations. Will you describe that, please?

A. Of course the amount of pressure at the time of contact with the wheel is in direct proportion to the amount of burn, chrome burn on the piece. Normally a very very small amount of pressure comparatively speaking with other buffing operations is required. As a matter of fact, we experience certain difficulty in having our men apply a small enough amount of pressure when they are chrome buffing for the reason that if any great amount of pressure is applied especially in a low current density area the chrome is immediately removed and the nickel below comes

into view which of course makes an objectionable and unsaleable piece.

Q. In other words, there is a very definite limit to the amount of pressure you can apply in the chrome buffing operation?

A. That is correct.

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812

Q. (By Mr. Langs) On August 31, 1953, Mr. Morley, did you see any fog of dirt or dust in the buffing room at or about five o'clock on that afternoon?

A. No, I did not.

Q. Did you ever see any such thing as a fog of dirt or dust in the buffing room at any time?

A. Not an actual fog of any kind, no.

Q. Isn't it true that any dirt or the particles of items which you have described here and things which are used for buffing and

813

polishing are articles which if they come loose from the wheel or from the articles which are being polished or buffed are heavier than air and would fall to the ground?

A. Generally speaking. The only time that material would be inclined to stay in the air would be at the point of raking on a wheel where nothing but the cotton itself would be flying or being removed from the wheel. A certain amount of that would go off into the air and more or less stay temporarily.

Q. Eventually it will settle down?

A. Yes.

Q. And that raking, I think we have determined that is a matter which was of very short duration, a matter of a second or two seconds or ten seconds, or whatever amount of time is necessary to clean the particular wheel involved

at that time?

A. That is right, and balance the wheel.

Q. A very short duration?

A. It depends on the wheel. It would be a relatively short operation.

Q. It would be a matter of seconds, ten, 15, 20, 30 seconds?

A. I suppose someone might rake a wheel for 30 seconds. It would depend again on the operator's desires.

Q. On this day of August 31, 1953, at five o'clock in the afternoon did you see one inch of dirt on the floor in the buffing room?

A. I have never to my knowledge at any time see an inch of dirt

814

on it.

Q. Did you see it that day?

A. No.

Q. Did you ever see it at any time in the buffing room?

A. I have never seen an inch of dirt in the buffing room, over the buffing room area at any time.

Q. Now I refer you to General Counsel's Exhibit Number 13-A, and ask you if you recognize that?

A. Yes, this is a paper directed to the Aetna Insurance Company, printed by them.

Q. Is that a form required by them?

A. Yes, it is.

Q. Is that made out under the terms of the policy?

A. Yes, it is.

Q. Now I show you General Counsel's Exhibit Number 12, Mr. Morley, and I refer you to page 4 of the group insurance policy which covers the group life insurance policy and I refer you to the second paragraph or what appears to be the second paragraph, the portion which is underlined.

Will you read that, please, just the portion underlined?

A. "Cessation of active work by an employee shall be deemed termination of employment."

Q. Now we have read into the record what that consists of during the course of this hearing and there are certain exceptions there with reference to I believe sickness, injury, leave of absence,

815

and so forth, is that right?

A. That is correct.

Q. Now the form General Counsel's Exhibit 13-A, is that prepared pursuant to the requirement of the policy which you just read?

A. Yes.

Q. And those employees who left their employment and did not return to work after they walked out on September 30th, were not—they had engaged in cessation of active work, is that correct?

A. That is correct.

Q. They didn't return to work, active work?

A. That is correct.

Q. Now the same thing is true, is it not, Mr. Morley, on General Counsel's Exhibit Number 11, which is the group insurance policy with reference to the group hospitalization insurance, and I refer you to page 4 of that exhibit, and if you will read the portion of that that is underlined?

A. "Cessation of active work in the classes of employees eligible for insurance shall be deemed termination of employment."

Q. And the General Counsel's Exhibit Number 13-A, that is this particular form here, 13-A, as it applies to the group hospitalization insurance again, was filed pursuant to the provision in the group hospitalization policy which you just read?

Testimony of Charles E. Morley

A. Yes, it was.

Q. Now, Mr. Morley, do you recall an arbitration case in which the UAW-CIO requested and filed written request on here a couple

816

of years ago?

A. Yes, I do.

Q. Was that specific grievance arbitrated pursuant to section 5 of the grievance procedure set forth in the contract between the UAW-CIO and the Company?

A. Yes, it was.

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817

Q. (By Mr. Langs) Now, do you recall the negotiations, the meeting between the Company where you and I were present on September 14, 1953 in your office where discussion took place concerning a possible arbitration which was attempted to be scheduled for September 18th or the Friday following?

A. Yes, I do.

Q. Do you recall who made the telephone call to the American Arbitration Association for the purpose of trying to set up that arbitration on September 18th, we made the call on September 14th, for the purpose of trying to set it up on September 18th. Do you

818

know who made that call?

A. You made that call.

Q. Do you recall whether or not the Union bargaining committee agreed to proceed with the arbitration and prepare the necessary written grievances and material for arbitration?

* * * * * * *

Trial Examiner: The Union did not what?

Testimony of Charles E. Morley

The Witness: Follow through on the matter of arbitration.

Trial Examiner: Will you explain what you mean by following through?

Mr. Corenman: I move the answer be stricken as not being

819

responsive to the question.

Trial Examiner: Motion denied. Will you explain what you mean by the use of the word follow through?

The Witness: The Union at one time I believe contemplated taking the matter or the specific matter in question to arbitration, but apparently they later changed their mind and did not take the matter to arbitration or take the necessary steps to take the matter to arbitration.

Q. (By Mr. Langs) Did they file a written grievance?

A. No, they never did, not at the time on that subject.

Q. On September 14th did they file a written grievance?

A. They did not.

Q. Did they refuse to file a written grievance on that day?

A. Yes.

* * * * * * *

Q. (By Mr. Langs) What did the Union do with reference to preparing a grievance and with reference to filing a grievance with the Company? What did they do, if anything?

A. I think they had contemplated—they told us they had contemplated filing a grievance, but they just never filed it.

Trial Examiner: You say they never filed it?

820

The Witness: At that particular time.

Trial Examiner: Meaning September 14th?

The Witness: September 14th.

Mr. Langs: The record shows that grievance was filed on September 18th.

Trial Examiner: That's what I wanted to clear up.

Mr. Langs: We are referring now to September 14th.

Q. (By Mr. Langs) Now, after I made this telephone call to the Arbitration Association, which you have referred to, did Mr. Young agree or not agree to proceed with the setting up of a proper arbitration procedure?

Mr. Corenman: That is objected to as calling for a conclusion of the witness.

The Witness: He did not.

Mr. Corenman: I believe he should state what was said and let the Examiner determine whether there was agreement or not.

Q. (By Mr. Langs) Tell us what was said by Mr. Young after I made this telephone call to set up the arbitration? What did Mr. Young say about going ahead with the arbitration?

A. He said no, they would not proceed, and following that you again called the arbitration people and told them that Mr. Young would not proceed and that any possibility of arbitration, apparently, was called off as of that time, due to Mr. Young's refusal.

Q. Where was that call made? In your office, the outer office,

or in the presence of Mr. Young, or where?

A. It was made in the presence of Mr. Young. In fact during some portion of that conversation, the first conversation it is my recollection that you handed the 'phone to Mr. Young and he carired on some conversation with the parties at the other end of the line.

Testimony of Charles E. Morley

Q. Now, this particular grievance on September 14th that we are talking about concerned what matter?

A. The matter of buffers who left on August 31st.

Q. Was there a written grievance filed for these buffers that left on August 31, 1953, on September 14, 1953?

A. No, there was not.

Q. Was there ever any written request for arbitration of this particular grievance filed with the Company at any time?

A. No.

Q. Now there have been discussions and some questions and answers with reference to the grievances, written and oral, and will you tell the Examiner approximately how many written grievances have been considered between the Company and this Union?

A. Something over 50.

Q. And did I as one of the negotiators for the Company sit in on all of those settlements or dispositions of all of those written grievances?

A. I believe not.

Q. Will you state for the Examiner whether or not at times when

822

I came out and sat in on the negotiating with the Union whether I considered any oral grievances?

A. It was always your policy at the time you attended such meeting to request the grievances in writing that were to be discussed in that particular meeting.

Q. Did I make that known to the Union?

A. You did.

Q. On more than one occasion?

A. On many occasions.

Q. And that was the practice that was followed?

A. That was the practice that was followed.

—Testimony of Charles E. Morley

Q. Now, reference to these grievances that Mr. Kelly and Mr. Young have indicated were in oral form on September 25, 1953, which is the last day of the Union contract. Was I present at that meeting on September 25, the last day?

A. Yes.

Q. What position did the Company take at that meeting with reference to the grievances that were oral?

A. The position that was taken was that we had given whatever decision we felt we could after negotiating on any of those grievances prior to and that these grievances if they wished to be processed further by the Union should be reduced to writing and submitted to the Company for such processing.

Q. What was the position of the Company at this meeting on September 25, 1953, with reference to the grievances that were in

writing?

A. At that particular time after having negotiated on those grievances we had reached our decision regarding the questions involved and had given our—the result of such writing in answer to these grievances.

Q. And had the position of the Company changed in any way with respect to these written grievances that had already been answered since September 25th?

A. No.

Q. Was it changed in any way on September 25, 1953?

A. No.

Q Has the Company ever refused to meet at the request of the Union for negotiating?

A. No.

* * * * * * *

Q. (By Mr. Langs) On September 30, 1953, did you

tell Dorothy Cezik if she walked out she was fired?

A. No, I absolutely did not.

Q. After September 30th as a result of a letter which you sent out to employees dated October 1st were there several employees that returned to work?

A. Yes, there were.

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830

MILFORD C. BERNIA, a witness recalled by and on behalf of the Respondent, having been previously duly sworn, was examined and testified further as follows:

Redirect Examination

Q. (By Mr. Langs) Mr. Bernia, you have with you these 14 employees who have been named to whom notice of October 1, 1953 was sent and who returned back to work on or before October 5, 1953?

A. Correct.

Q. Will you refer to your records and the number of Theresa Casha. Did she work on the day of the strike?

A. She did.

Q. Was she absent the next day?

A. She was absent the following day.

Q. Is that the day when the letter was sent?

A. That is the day when the letters were sent.

831

Trial Examiner: When did she return to work?

The Witness: We don't have that—wait a minute, we do, too. She returned to work the following day. That would be on October 2nd.

Q. (By Mr. Langs) Jennie Bellhorn. Was she working the day of the strike?

A. She was absent the day of the strike. She was also

absent the day the letters were sent out and the following day for the balance of that week.

Q. Now, October 5th is on a Monday, I believe, is that correct?

A. That is correct.

Q. Then she returned to work on October 5th?

A. I assume she did. I don't have a card for her. These are the people returned on or before October 5th.

Q. You made a check of these people at my request?

A. Yes.

Q. And you informed me of that fact. Archie Ramsey?

A. He was absent the day of the strike and he worked on the following day although he was on the afternoon shift, and we sent these letters out in the morning not knowing whether or not he was coming in, he was sent one of the letters.

Trial Examiner: And he returned to work?

The Witness: The following day.

Trial Examiner: Which is what day?

The Witness: That would be October 1st.

832

Q. (By Mr. Langs) The letter was sent in the morning?

A. Yes, sir.

Q. And he came back and worked in the afternoon?

A. Yes.

Q. Paul Wagoner?

Trial Examiner: Before we leave that last name, have you any way of knowing whether or not the letter was received by him before he returned to work?

The Witness: I wouldn't know.

Q. (By Mr. Langs) Paul Wagoner.

A. Paul Wagoner was absent the day of the strike and he came in the following night at midnight, but he was sent a letter due to the fact we didn't know whether or not he

was coming in.

Trial Examiner: He came back in now as I take it from your testimony on the evening of October 1st?

The Witness: That is correct.

Mr. Langs: Midnight?

The Witness: At midnight.

Trial Examiner: At midnight?

The Witness: Yes.

Trial Examiner: Midnight, October—

The Witness: Actually it would be on—

Mr. Langs: The eleven o'clock shift?

The Witness: The 11:00 p.m.

Trial Examiner: October 1st?

833

Mr. Langs: Do you understand his question, eleven o'clock, October 1st?

The Witness: Yes.

Trial Examiner: And the letters were sent out in the morning of October 1st?

The Witness: Yes.

Trial Examiner: Do you happen to know what time those letters were mailed?

The Witness: No, sir, I don't. The people in town possibly—

Trial Examiner: All I wanted to know was whether or not you know if he got the letter.

The Witness: No, sir.

Q. (By Mr. Langs) Do you know when they were taken over to the post office?

A. Some time in the morning, I don't know exactly what time, no.

Q. I was wondering whether there was some problem in your mind in answer to the Examiner's question whether you were trying to determine what time the post office

might have sent them out. You know they were taken over to the post office in the morning?

A. Yes, sir.

Q. Any question in your mind about that?

A. None at all.

Q. Luella Stoecker?

A. She was absent the day of the strike. She returned to work the following day on October 1st at approximately six o'clock in

834

the evening.

Q. Jean Hollis?

Mr. Langs: You wish to ask the same question on that, too?

Trial Examiner: Yes.

Q. (By Mr. Langs) Do you have any knowledge as to whether she received a letter?

A. No, sir.

Q. You have no personal knowledge?

A. No.

Q. Jean Hollis?

A. Jean Hollis was absent the day of the strike and she was also absent the following day, was sent a letter and returned on October 2nd.

Q. At what time?

A. At 2:49.

Q. She returned for the three o'clock shift?

A. Yes.

Q. That was Jean Hollis?

A. Jean Hollis.

Q. William Taylor?

A. William Taylor left at 11:30 on the day of the strike, was absent for the balance of the week and I assume that he returned on October 5th which was the following Mon-

day. I don't have his card available here.

Mr. Corenman: We concede that William Taylor walked out on

835

the strike on September 30th and he returned on October 5th.

Trial Examiner: You concede that?

Mr. Corenman: We concede that.

Q. (By Mr. Langs) Edward Nothaft?

A. Edward Nothaft worked the full day of the strike and he was absent the balance of that week, and I assume that he returned on Monday, October 5th.

Q. Mr. Nothaft's name appear on this list that you furnished me of employees who returned on or before October 5th?

A. That is correct.

Q. Samuel Hamblin H-a-m-b-l-i-n?

A. He worked the full day of the strike, was absent the following day, sent a letter and was absent the day after and returned on Monday, October 5th.

Q. Frances Gierke?

A. She worked the full day of the strike, was absent the following day, sent a letter and she returned on October 2nd at seven o'clock, 7:00 a.m.

Q. Hazel Redlin?

A. She worked the full day of the strike, was absent the following day, was sent a letter and was absent for the balance of the week. She also returned on Monday, October 5th.

Q. Stella Tutka?

A. She worked the full day of the strike, was absent the following day, sent a letter and she returned on the following day,

836

October 2nd, at 7-12 a.m.

Q. Alice Bauman?

A. Alice Bauman was absent the day of the strike. She was absent the following day, sent a letter and she returned on Friday, October 2nd, for the three o'clock shift.

Q. John Zeros?

A. John Zeros was absent the day of the strike, and was absent for the balance of the week, sent a letter on October 1st, and I assume he returned on Monday, October 5th.

Q. It appears on the list you gave me that he did return on October 5th?

A. Yes.

Q. Now in addition to the 14 names which have been given a notice I believe was sent to Lottie Garlick, who was on leave of absence, is that correct?

A. I don't believe she was sent notice. I believe she was on leave of absence but she wasn't sent a notice, not to my recollection anyway.

Q. Anna Carperter? Was she on leave?

A. She was on leave of absence, but she was erroneously sent one of these letters.

Q. Did she return?

A. No, she did not.

Q. Mildred Eldred? Was she on leave of absence?

A. She was on leave of absence.

837

Q. Did she get a notice?

A. No.

Q. Did she come back to work?

A. Yes.

Q. After October 5th?

A. Yes.

Testimony of Milford C. Bernia

Q. Is she still working?

A. Yes, she is.

Mr. Langs: I believe that covers the—

Q. (By Mr. Langs) Do you recall any other employees that were on leave of absence prior to the strike that came back after the strike?

A. To my recollection there was one other employee, a Lula Dobbs. She did not return at the end of her leave of absence.

Q. Do you recall anything special about a Leona Bronikowski?

A. Leona Bronikowski, she was also on leave of absence at the time of the strike and at the expiration of her leave of absence she came back and worked one day, I believe, and then left.

Trial Examiner: And what?

The Witness: Left.

Mr. Langs: I believe that identifies these names now.

Mr. Corenman: I may cross-examine?

Mr. Langs: Yes.

Recross-examination

Q. (By Mr. Corenman) Mr. Bernia, then would I be correct in

saying October 1st you sent letters to anyone who had absented themselves from work, either on September 30th or on the morning of October 1st, is that correct, and you didn't know the reason for the absence? For example, if they were on leave of absence, you would have sent them a letter, but if you didn't know why they were absent you sent them this letter, is that correct?

A. That's correct.

Q. And after sending that letter these people whom you

have just named did return to work on the various dates, all of them, before October 5th, that is correct?

A. On or before October 5th.

Q. Do you know whether or not any of them were in fact strikers?

A. I don't know of any particular incidents.

Q. Did you yourself convoy any of them into the plant?

A. No, sir, I did not.

Q. Did Mr. Hebel or Mr. Morley convey any of them into the plant there between September 30th and October 5th?

A. I wasn't with them, I couldn't say who they convoyed in, if they did anyone.

Q. You didn't contact any of these people between October 1st and October 5th except by your letter?

A. That is correct.

Q. Therefore you don't know whether they were on strike or whether they want to work or whether they were induced to come to work or anything?

A. That's right, I personally don't know.

Q. It may be that some of them were on strike and induced to come to work by your letter of October 1st, is that correct?

A. That's correct.

Mr. Corenman: That's all.

Trial Examiner: Thank you, sir.

(Witness excused.)

CHARLES E. MORLEY, a witness recalled by and on behalf of the Respondent, having been previously duly sworn, was examined and testified further as follows:

Testimony of Charles E. Morley

Direct Examination (Continued)

Q. (By Mr. Langs) Now, Mr. Morley, in addition to the names which have been mentioned here so far by Mr. Bernia, and which we have covered—since the receipt of General Counsel's Exhibit Number 18—you recognize that letter?

A. Yes, I do.

Q. That is a letter dated?

A. June 12, 1954.

Q. That is a letter which the General Counsel introduced into evidence and the first paragraph says, "That the strike has been called off," is that correct?

A. That is correct.

Q. Since the receipt of that letter have you called back other employees who were out strike?

840

A. Yes, we have.

Q. And who are they?

A. Edward Baumgarten or Edmund I believe his name is, Baumgarten And Frank O. Bembler, and Roman Redlin.

Q. Those are the only three so far that have been called back since the receipt of that letter?

A. That is correct.

Q. And they were employees that were out on strike?

A. That's correct.

Trial Examiner: Do you have the dates when they were recalled?

Mr. Langs: Do you have any information as to when these people came back to work?

Mr. Bernia: I can tell you when. I have nothing here to show it.

Mr. Langs: The 9th of August which ones came in?

The Witness: Bembler and Baumgarten.

Testimony of Charles E. Morley

Mr. Langs: Roman Redlin, is he in or when is he to come in?

The Witness: He is to come in tomorrow.

Mr. Corenman: What was that on Redlin?

Mr. Langs: He is coming in tomorrow.

Q. (By Mr. Langs) After Baumbarten came back to work, how long did he work?

A. He just worked one day.

Q. Has he shown up since that time?

841

A. We have not seen him since.

Q. And to replace the work which you had for him you sent out this letter to Redlin?

A. That is correct.

Q. Are you familiar with the time when the pickets appeared—how long they continued in front of the property of the Knight Morley Corporation, September 30th up until approximately when?

A. I would say approximately in May.

Q. 1954?

A. 1954.

Q. And during that time they would have how many people?

A. Well, it varied from day to day and hour to hour. In other words, there would be some days there would be oh, a fairly good assemblege and other days it would be down to possibly one person at one time.

Q. And days when there weren't any there?

A. That is correct.

Q. Do you know Jess Underwood?

A. Yes, I know Jess Underwood.

Q. And did he—did you see him on the picket line?

A. Yes, many times.

Q. Was he there in the early part of 1954?

A. Yes.

Q. Did you see him contact truck drivers, salesmen or other people who came into the plant?

842

A. Yes, I did.

Q. Did he sit in his car and do it or did he get out?

A. I think in most instances he sat in his car. He usually endeavored to park his car very close to the entrance and he would challenge the people and call them over as they went by.

Q. Did you ever see him get out of his car and talk to anyone?

* * * * * * *

Q. Do you recall a conversation Mr. Collins had with Mr. Hebel and you in the plant to which he referred to?

A. Yes, I do.

Q. Will you tell the Examiner what he said and what you said?

A. Mr. Collins approached Mr. Hebel and myself simultaneously and as near as I can recall his exact words, he addressed Hebel and said, "Herb, when do you think the strike will be over and I can come back to work?" And Herb said, "I don't know," and he said, "Well, I am getting kind of lonesome for the place, I would like to come back," and Hebel asked if he would come back as long as the strikers were there and he said no he couldn't do that but he was sure getting lonesome for the place.

Q. Did you on August 31, 1953, around five o'clock in the

843

afternoon, did you observe any conditions of 110 degrees inside the buffing room at the time that you were out there and these discussions took place?

A. No.

Testimony of Charles E. Morley

Q. Did you observe any abnormally dangerous conditions on that date at that time and place?

* * * * * * * *

The Witness: No, I did not.

Q. (By Mr. Langs) Have you ever informed any employee that left the premises on September 30, 1953, as a result of the strike that they were discharged?

A. No, I never have.

Q. Since the strike was called off pursuant to the letter which I just showed you, General Counsel's Exhibit Number 18, are you in the process of calling back those employees who are desirous of coming back to work and who walked out on strike on September 30, 1953?

A. Yes, we are as fast as job openings occur.

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844

WILFORD THOMAS HICKS, a witness called by and on behalf of the Respondent, being first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Langs) Mr. Hicks, what is your full name?

A. Wilford Thomas.

Q. What is your duties with the Knight Morley Corporation?

845

A. Afternoon superintendent.

Q. Were you present on the afternoon of August 31, 1953?

A. I was.

Q. Were you present about 5:00 p.m. or thereabouts on August 31, 1953?

A. Yes, I was.

Q. When Mr. Harsch, Harry Harsch, made certain statements to the employees?

A. Yes.

Q. With reference to the machines or mechanism in the buffing room, do you recall that?

A. Yes, sir.

Q. Will you state for the record what Mr. Harsch said in your presence, that you heard, to the man or men, singular or plural, who were buffers in the buffing room on August 31, 1953, with reference to the problem involved?

A. Well, he asked me to send them home in the beginning, the first time I spoke to Mr. Harsch, he wanted to send them home. I had no reason to send them home. I told him, the blower was then working right.

Trial Examiner: Keep your voice up, please.

The Witness: I had no reason for sending the men home.

Q. (By Mr. Langs) Did he at that time or shortly thereafter make some statement about shutting down the machines?

A. Yes.

Q. Was that made in your presence?

A. It was.

Q. What was his statement?

A. He said, "Shut her down, boys."

* * * * * * *

the men in the buffing room were experiencing some discomfort with the blowers or making some complaints about them?

A. The first time I was aware of any question regarding the blowers I believe was when Mr. Harsch came into the office portion of the building where I was.

Q. And about what time of the day was that?

A. It would be some time following the time the shift started working, some time following 3:30.

866

Q. What was it Mr. Harsch said to you at that time?

A. To the best of my recollection, he said there was some question either in his mind or in the minds of the men working there as to whether or not the blowers were functioning as well as they normally had functioned.

Q. And what, if anything, did you say to Harsch then?

A. I believe I went over the fact with him that we had spent a good portion of the day in cleaning the blowers in question, and that they should be functioning actually better than they had during the morning, just due to the very fact that they had been cleaned, and I believe that they would undoubtedly be working the same as they had always worked.

Q. And have you now related all of the conversation between you and Mr. Harsch?

A. Mr. Harsch requested that I come out into the blower room or I volunteered to do it—I can't tell you at this point which was the fact, and I believe that I went to the room with him as a result of that.

Q. And while in the room, did you make any observations to determine whether or not the blowers were working?

A. Yes.

Q. What did you do?

A. I visually went from one or two of the machines I put my hand down to see if there was any movement of air and I believe I blew cigar smoke into some, possibly one or possibly more of the

867

machines, to determine whether or not there was any draft.

Q. And did you notice whether or not the blowers sucked up the cigar smoke?

A. It was my impression the blowers took the cigar smoke.

Q. Did you conclude therefore that because the cigar smoke went up through the blowers there was nothing wrong with the blowers?

A. It was very evident to me that the machinery was running. You could hear the machinery running and as far as I could determine the machinery was operating in the same manner as it had always operated.

Q. And am I correct in saying that you made your determination on the basis of the fact that you noticed cigar smoke went into the blowers, is that correct?

A. There is a number of things that entered into my belief at that time as I have just stated, and I sincerely and honestly believed that they were operating correctly or in the manner they had always operated.

Q. Nevertheless, the cigar smoke test convinced you they were operating correctly, is that correct?

A. It was a contributing factor.

Q. Well, what other factors contributed to your conclusion the blowers were working good?

A. I have already told you. In other words, I felt, manually felt that there was a draft being created. I knew through listen-

868

ing that the machinery was operating.

Q. You felt, you put your hand in the pipe, is th correct?

A. No, I did not put my hand in the pipe. In oth words, I simply held my hand down near the machines.

Q. Down by the revolving wheel?

A. By the revolving wheel.

Q. I see. And you felt some air removed from t revolving wheel, is that correct?

A. I felt some air move.

Q. Therefore on the basis of feeling some air movemer from the revolving wheel and the cigar smoke drifting int the blower pipe, you concluded that the blowers wer operating efficiently, is that correct?

A. I concluded that the blowers were operating cor rectly at that time.

Q. Let me ask you this. Do you recall going over t the cyclo-wash?

A. I believe I did go to the cyclo-wash, yes.

Q. Why did you go to the cyclo-wash?

A. I think there was some discussion as to whether th water was too high in the unit or not.

Q. So what was done at the cyclo-wash?

A. I think we took a small—there is a small opening there that can be utilized, I think we checked with that to see whether or not the cigar smoke went into it, and I believe also that I

went and looked at the actual physical water in that unit either at that time or shortly thereafter. I can't recall whether anyone accompanied me on that or not.

Q. Now, you said it was through that perhaps the water level was too high in the cyclo-wash, is that correct?

A. I think there was some mention made of it.

Q. And do you recall who mentioned that?

A. No, I don't, Mr. Corenman.

Q. And on the basis of this mention by someone, whoever it was, that perhaps the water level was too high in the cyclo-wash, you had some water drained from the cyclo-wash, isn't that correct?

A. That is entirely possible because it was a common procedure to open a valve and drain water off in the event it got above a certain level.

Q. Now, did you make any test to observe whether or not after the water had been drained from the cyclo-wash, as to whether or not the blowers were working any better?

A. I don't believe that I did.

Q. What did you do then?

A. I returned to the office where I had work that I was doing.

Q. And what happened after that in connection with your controversy with respect to the blowers, if anything?

A. Mr. Hicks came into the office shortly thereafter and advised me that apparently the men were going to go on a wild cat strike.

Q. Were those his words, the men were going to go on a wildcat

strike, or what were his words?

A. I can't tell you what his exact words were at this moment, Mr. Corenman. I am simply relating the gist of the thing.

Q. He didn't use the term wildcat strike, did he?

A. I believe he did, Mr. Corenman, at least I think he definitely told me that men were going on a walkout or they were walking out, or were going to walk out.

Q. He said the men were walking out. Did he say why?

A. Yes, he told me that in his estimation Mr. Harsch

was fostering a walkout or strike.

Q. And did he tell you whether or not any of the m were complaining about the blowers not working?

A. Whether he did at that moment or not, Mr. Core man, is something I can't remember, however there ha been previous question about the blower.

Q. You assumed that the difficulty was the men's com plaint that the blowers were not effectively working?

A. You assumed what?

Q. You assumed the men's complaint was the blower were not effectively working, is that correct?

A. I assumed their complaint?

Q. Yes.

A. I had been told by Mr. Harsch previously, as I testi fied, that he felt the blowers were not working correctly.

Q. So when Mr. Hicks came back to see you, and told you the men

871

were talking about walking out, you concluded that the matter that was bothering them was the blowers, isn't that true?

A. No, that is not.

Q. What was your conclusion as to what was bothering the men, why they wanted to leave?

A. My conclusion based on the fact that Mr. Harsch had originally wanted to have the men only work a matter of a couple of hours, because he felt that it was a hot day, had been engendered into a condition by Mr. Harsch where I was about to have a wildcat strike pulled.

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872

Q. Did you make any endeavor to determine what the reason was other than that Mr. Hicks told you?

A. Only to the extent that I previously testified.

Testimony of Charles E. Morley

Q And what instructions, if any, did you give, Mr. Hicks?

A I told Mr. Hicks asked him if he would go and talk to the men and advise them if we would feel, the Company's position would be if they walked out they would be violating our notice to the effect that they should not leave their jobs and that they would be violating the contract, and that if they left under those conditions they would undoubtedly find themselves out of work, and I asked him if he would ask them to please stay on the job and work.

Q. Now did you feel that you were making an unreasonable demand to insist that the men stay on and work on a hot day with the blowers not working?

A I certainly did not Mr Corenman.

Q Did it occur to you that perhaps the health of the men was being endangered by working on a hot day without blowers?

A. They were working on a hot day without blowers, Mr. Corenman. They had worked that morning for a period of a couple of hours without complaint of any kind. The blowers had been cleaned and in my estimation would be in the pink of condition and—

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875

Q. So on Monday morning, August 31st, you started work without the blowers having been cleaned over the weekend, that's right?

A. That's correct.

Q. And am I correct in your statement that you received no compaints that morning from anyone, from the foreman or anybody at all that the blowers weren't working properly, the morning of August 31st?

A. Not to my knowledge, did I receive any complaint about the blowers at all.

Testimony of Charles E. Morley

Q. So as a routine matter inasmuch as the blow hadn't been cleaned over the weekend, you sent the m home at nine o'clock, is that right? That is, you order them sent home?

A. That's right.

Q. And because of that you lost a whole day's pr duction, there, didn't you, you lost that morning's shi production?

A. Yes, we did.

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884

Q. And when they attempted to return to work th next afternoon, you would not permit them to work, tha is correct?

A. That is correct.

Q. Now on the morning of September 1st what infor mation, if any, did you learn about complaints concernin the blower system, if any?

A. None, none that I know of when they appeared tha morning.

Q. Do you recall meeting with the bargaining commit tee, talking with some members of the bargaining commit tee, on Tuesday, September 1st?

A. Yes.

Q. About what time was it you talked to a member of the bargaining committee or the bargaining committee as a whole?

885

A. Well, I couldn't state as to the exact time. I think intermittently I talked with one or more of them during most of the day.

Q. Well, do you recall that Harry Harsch and Joe Muniz came into the plant the following morning?

A. Yes, I do.

Q. Do you recall talking to them that morning?

A. Yes.

Q. And I believe that was the morning that you told them to leave the plant, is that correct?

A. That is correct.

Q. You recall that shortly after that some members of the committee talked to you, or shortly before that?

A. As a matter of fact, at the present time they were there, I think Mr. Kelly was present, who was a member of the committee.

Q. And you recall what, if anything, was said at that time?

A. Not particularly, generally speaking.

Q. Do you recall whether anyone told you on Tuesday morning, September 1st, that there were complaints about the blowers not working properly?

A. I don't think there were any complaints about it or it was expressed to me that way. The question was raised as to whether or not they were working properly, and I think everyone was as much in the dark on the matter as I was as to whether they were or weren't.

886

Q. Did some member or members of the committee tell you as to whether or not the blowers were working properly on Tuesday morning?

A. Undoubtedly my opinion was asked.

Q. Was there some question made to them, that is, did they make some contention to you the blowers were not working properly?

A. They might possibly have done that.

Q. And in response to that, did you tell them you would have them checked, have maintenance check them?

A. I told them I was having maintenance investigate the thing as thoroughly as possible.

Testimony of Charles E. Morley

Q. And eventually towards the end of the day you di find out the difficulty and had the fan reversed, is tha right?

A. I am not sure whether frankly I discovered an difficulty or not, because I don't know how that fan wa running before, but at the change of shifts I made a sug gestion that the fan be reversed and see if it made an appreciable difference, and that was done.

Q. And after that was done you didn't disturb the fan any more then, did you, disturb the motor?

A. For what period of time?

Q. That day, September 1st?

A. I am not positive whether we tried it fore and back or not, Mr. Coremman. I think not, however I think it was just reversed the one time that day.

887

Q. Now was it on some later day that you said you made some sort of test yourself about reversing the fan?

A. The last day that I made such a test was last Saturday.

Q. This last Saturday.

A. I might state that I made such a test last Saturday with counsel, Mr. Langs, in attendance.

Q. You mean this is the test about the shirt you were wearing, you are talking about that shirt you were wearing, is that right?

A. No, I am not particularly talking about the shirt. In other words, you asked me I think if I had reversed the motor at a subsequent date, and I said the last time I had done it was last Saturday.

Q. Last Saturday you reversed the motor, is that right?

A. That's right.

Q. It is still running in reverse?

Testimony of Charles E. Morley

A. I think we put it back in position, it was running previously.

Q. All right. Now, you recall testifying before the Unemployment Compensation Commission on January 7, 1954 and I will direct your attention to your examination by Mr. Langs at that time, and I will ask you if this question was not asked you and this answer made: "Question: Now, during the morning of September 1, 1953, what action, if any, was taken at that time with reference to this blower? Answer: Well, I am not positive as to the exact hour but I think it was somewhere in the vicinity of nine o'clock. Two of the people that left the plant the night before came to

888

the plant and engaged in a conversation with some of the Union committee and shortly thereafter the committee questioned me regarding the efficiency of the blower, how it was working, and I told them I would have the maintenance check it and make certain that everything was correct to the best of my ability. We held a meeting with them later in the day, with the committee, and at the time the day shift left while the plant was down for a matter of a short period of time I had the maintenance department check the wiring, that it had been replaced on Saturday, and it was determined that the fan was running in the opposite direction from which it normally ran, so I had them change the wires before the afternoon shift started to work."

I will ask you if that question was not asked you by Mr. Langs, and that answer given by you in response to that question?

A. I believe so.

Q. Now, Mr. Bernia, you testified, is the office manager?

TRANSCRIPT OF TESTIMONY
August 18, 1954

853

CHARLES E. MORLEY a witness recalled by and o behalf of the Respondent, having been previously dul sworn, was examined and testified further as follows:

Direct Examination ,Continued)

* * * * * * *

Q. Now I believe we covered the day September 25t with reference to grievances that the Union presented a that time, some oral and some written. I believe you stated that as to the oral grievances you informed the Union that if they wanted to proceed further with them they should be reduced to writing. Am I correct in that?

A. That is correct.

Q. As to the written grievances you had stated that after negotiation and consideration the position of the Company would be known on the written grievances and you informed the Union that was the p sition of the Company on those written grievances?

854

A. That is correct.

Q. Now at that time with reference to the written grievances which had proceeded through Step 4 of the grievance procedure, was there a discussion about arbitration?

A. We informed the Union that we had given our position to the grievance as far as they had processed them under the terms of the contract and we did request that if they wished to process them further they ask for arbitration.

Q. Was any request as to any of the specific grievances, as to a specific grievance, ever received in writing from the

Union as to any one of these written grievances which they presented on September 25th, 1953?

A. No.

Q. Now in the complaint the Company is charged with failure to negotiate with the Union on July 28th, 1953, which I believe the record shows was the first day of the meeting between the Company and the Union in the negotiation of the new contract. Now will you state for the record whether there were any items on that day that the Company refused to negotiate on?

A. None whatsoever.

Q. As a matter of fact there were proposals and counter-proposals submitted back and forth between the Union on that day?

A. That's correct.

Mr. Corenman: May I inquire what date you are talking about?

Mr. Langs: July 28th.

855

Q. (By Mr. Langs) Now on the date of August 6, 1953, that is set forth in the Complaint. On that date was there a negotiation between the Company and the bargaining committee of the Union?

A. Yes, there was.

Q. Will you also state for the record whether or not there were proposals and counter-proposals and discussions back and forth between the Company and the Union?

A. Yes, there were.

Q. Was there any refusal on the part of the Company that day to negotiate?

A. There was none.

Q. The next date set forth in the Complaint is August 22nd and I will ask you the same questions, Mr. Morley, about that date. Were there negotiations and proposals

and counter proposals and discussions and suggestions between the Union and the Company on that day?

A. There was.

Q. Was there any refusal on the part of the Company to negotiate as to any particular grievance or to set forth the position of the Company on a particular grievance on that date, August 22nd?

A. There were no refusals on the part of the Company.

Q. The next date is August 31, 1953. On that date was there negotiations between the Company and the Union?

A. Yes, there were.

Q. Did the Company and the Union exchange proposals and counter

proposals on that day?

A. Yes.

Q. Did the Company refuse to negotiate or set forth its position on any of the matters which were considered or discussed at that meeting?

A. It did not.

Q. Now August 31st, was there negotiations between the Company and the Union on that day?

A. Yes, there were.

Q. On that day were there proposals and counter proposals and suggestions and negotiations between the Company and the Union?

A. Yes, there were.

Q. Did the Company refuse to negotiate on any of the matters that were considered or discussed?

A. No, sir.

Q. Or present its position with respect to any of the grievances considered under the grievance procedure on that day?

A. No, we did not refuse.

Q. Now on September 14th which is the day—I think we have covered that—that was the day when an attempt was made to set up an arbitration for the following Friday?

A. That is correct.

Q. And on that day there was no refusal on the part of the Company to consider or negotiate the matters or to state its position with reference to a particular grievance. In fact there was

only one grievance presented that day, is that right?

A. I couldn't positively state whether that was the only grievance that was discussed that day or whether there was only one discussed, but we certainly did not attempt to—certainly did not refuse to discuss or give our opinion on anything.

Q. Now on September 14th when this grievance pertaining to the afternoon buffing shift was presented in oral form was there any attempts made by the Company to have that grievance reduced to writing?

A. Yes, there was.

Q. And I think we have already stated before it was not reduced to writing on that day?

A. It was not reduced to writing on that date.

Q. Was it presented to the Company in written form on that date?

A. It was not.

Q. Now the next date in the Complaint is September 24th which is the day before the contract expired. On that day were there negotiations between the Company and the Union?

A. Yes, sir.

Q. On that day was there discussions with reference to proposals and counter proposals and discussions and negoti-

ations between the Company and the Union?

A. There were.

Q. Did the Company refuse to negotiate on all matters properly presented and brought before the meeting on that day?

358

A. We did not refuse.

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860

Q. (By Mr. Langs) * * * Now, on October 14th, Mr. Morley, was there a negotiation meeting between the Company and the Union?

A. Yes, there was.

Q. And on that date, was the position of the Company with reference to the grievances and the matters under negotiation made known to the Union?

A. Yes.

Q. And was the position of the Company which was made known to the Union on October 14th, any different than it was on September 25th?

A. No, it was identical.

Q. And on October 29th was there a further meeting between the

861

Company and the Union?

A. Yes, there was.

Q. Was the position of the Company with reference to the grievances which were enumerated in the September 25th meeting, was the position of the Company made known to the Union at that time?

A. Yes, it was.

Q. Was the position of the Company with respect to those grievances on October 29th any different than it was on September 25th?

A. No, it was not.

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862

Cross-examination

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864

Q. By Mr. Corenman) * * * Now, am I correct in my assumption that you testified at about 5:00 p.m. on the afternoon of August 31, 1953, that the temperature in the buffing room had fallen 18 to 20 degrees or was the temperature outside that had fallen 18 to 20 degrees?

A. The temperature had fallen in my estimation both places. In other words, I noticed a definite change in temperature in the buffing room.

Q. And this was about five o'clock?

A. Approximately.

Q. And—

A. The temperature I noticed, the temperature had been falling in the entire plant.

Q. And what was the temperature outdoors at five o'clock?

A. I don't believe I went outdoors at approximately that time. I couldn't state positively what the temperature was.

Q. Now how did you arrive at the conclusion that it had dropped 18 to 20 degrees?

A. There was a very definite noticeable drop throughout the entire plant.

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865

Q. Now, when if at all did you first discover or learn on the afternoon of August 31st—no, I will withdraw that. When, if at all did you first discover on August 31st that

A. Following that date?

Q. Yes, sir. Now, as a matter of fact these strikers who you requested the life insurance company to cancel their policies as of October 5th, as a matter of fact, they left their employment just as the afternoon buffers did, only most of them left their employment on September 30th, isn't that correct? Why did you treat them any different than the afternoon buffers?

A. Because there was in our estimation a difference in the general conditions. In other words, the afternoon buffers had violated the contract and they were in our estimation—they had either quit as a result of the notice that was posted or they had gone on a wildcat strike, and in so doing violated the contract. They just simply refused to follow the grievance procedure

894

and so forth.

Q. And so you notified the insurance company to terminate their employment or their insurance as of August 31st because you knew their employment in fact terminated as of August 31st?

A. Yes.

Q. In respect to the other people, the strikers who left on or about September 30th, by notifying the insurance company to cancel their insarance as of October 5th, it was your intention to cut off and terminate their employment as of October 5th, is that not true?

A. It is not true.

Q. It is not true?

A. It is not true.

Q. Why didn't you cancel their insurance October 1st then?

A. Because by writing this letter we give them the date on which we advised them we would like to have them

returned or we would take the position their jobs would be filled or that we would hire other people to fill their jobs, and we of course had no way of knowing how many would actually return to active work before October 5th. Some did and some didn't.

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895

Q. (By Mr. Corenman) Mr. Morley, on the morning of September 30th a large body of workers walked out of the plant around 10:30 in the morning, is that not right?

A. A certain number did.

Q. You were present at the time, that's correct, isn't it?

A. Correct.

Q. Will you tell us what occurred there, who was there, and what was said?

A. There was considerable discussion about the time in question. It was evident that a strike, that the committee and various people were endeavoring to organize in effect a strike.

896

They were endeavoring to get a number of people to leave the plant and engage in strike activity. Some of the people didn't choose to go on strike and asked certain opinions of me. I was asked if they might talk to me and I said yes, and they asked certain things. They made certain statements as to what they had been told by the Union and asked if I would comment on them or give my opinion as to the truthfulness of these statements and I agreed that I would.

They advised me that they had been told by the Union at the time, some subsequent time, or some previous time, rather, that a strike vote had been taken, that they had told the people it was not their intention to use the strike or to actually engage in the strike, but they simply wanted the strike vote for a bargaining weapon, and on that basis some

of these people stated that they had gone along on a strike vote, but that they had gone along under that standpoint and that they didn't wish to strike, they wished to work, and they said the Union had told them if they didn't go on the strike, oh, a series of things—they would be blackballed, they would never hold another job in a plant where the CIO had a contract

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The Witness: I advised these various people that it was my understanding that the Union neither hired nor fired anyone, that it was my belief if they wished to continue working that the Union could not take their jobs away from them; they had a perfect right to continue working.

I also informed them that I was going to endeavor to the very best of my ability to keep the plant operating at all times and I requested that any that wished to go back to their jobs and get started and keep going, and—

Q. (By Mr. Corenman) Now—go ahead.

A. A number of people did exactly that. They went back to their jobs and kept going and some punched their time cards and walked on out the door.

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Q. Isn't it a fact that Mr. Young wanted to go in and talk to the people because you were telling the people that if they walked out they would be fired?

A. That is not true, Mr. Corenman, no.

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901

Q. And you don't recall saying anything to George, "George, if you walk out of this plant, you walk right out of a job?"

A. No, I can't recall having made any such statement.

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902

Q. (By Mr. Corenman) Now, Mr. Morley, getting back to this insurance policy these people who left the plant on September 30th, September 30, 1953, as a matter of fact they actually ceased active work on September 30th. That is correct, is it not?

903

A. We had no way of knowing, Mr. Corenman, whether or not they had.

Q. And so you wanted to testify you notified them to return to work by October 5th, and if they didn't return to work by October 5th you would consider them as having ceased active work as of October 5th, isn't that correct?

A. What we told them in this letter, Mr. Corenman, is that we would consider for the purposes of having other employees hired to replace their jobs, that we would consider at the point they had left or they had quit, so that we would be in a position, in other words, that if they didn't return to work by that time that we would replace them or start hiring other employees to place in the specific jobs they had formerly had.

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Q. Now, getting to this September 14th date, I believe that's the date there was some explanations of a possible quicky arbitra-

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tion. Do you recall that date?

A. Yes.

Q. I believe that's the date Mr. Langs objected to the presence of Harry Harsch in the room, that's correct, is it not?

Testimony of Charles E. Morley

A. I am not positive there again without referring t notes. There were a number of days close together ther where we had meetings. Whether that is the individua date in question or not, I would like to refer to notes on th meeting before I say.

Q. At any rate, it was one of those meetings that Mr Langs objected to Mr. Harsch sitting in the meeting, that' correct, is it not?

A. At some meeting.

Q. Getting back to this quicky arbitration meeting that's the meeting in which both Mr. Langs and Mr. Young both contacted the arbitration service on the telephone right in the same office and that's correct, is it not?

A. They both talked with the arbitration service.

Q. One time Mr. Young would be on the telephone talking and Mr. Langs at another time, that is correct, is it not?

A. I think specifically Mr. Young only talked once with them, and Mr. Langs I think—

Q. And do you recall that Mr. Young objected to only one person on the panel of arbitrators? Do you recall that?

A. My understanding there was no panel of arbitrators selected at that time.

906

Q. I understand but there was some discussion about arriving at an arbitrator to be selected by this arbitration service and don't you recall that Mr. Young objected only to one person and that was George Bowles being selected as an arbitrator?

A. I think Mr. Young—I am not positive on this, but as I recall it, I think Mr. Young made the statement that this man Bowles was on an arbitration case we had formerly had with the Union where they decided in our favor, and I think he made the statement that he wouldn't have—

Q. He didn't want Bowles. He was willing to take any-

body but Bowles, is that right?

A. No, I don't think he said he was willing to say he would take anybody but Bowles, but I think he made a specific—

Q. He specifically excluded Bowles?

A. He specifically excluded some person who had formerly ruled against him or against the Union's position.

Q. Don't you recall now that Mr. Langs stated he specifically excluded all long-haired boys? You recall that now?

A. Mr. Langs said he would object to long-haired boys as he termed them, yes.

Q. And at any rate those explorations of getting a quicky arbitration fell through at the September 14th meeting, that is correct, is it?

A. Yes, there was no demand made on us for arbitration in writing at that time before they left.

* * * * * * *

907

Redirect Examination

Q. (By Mr. Langs) Mr. Morley, on this date of August 31, 1953, isn't it true that on that day, the afternoon buffers walked out that other employees were working in the plant in other departments?

A. Yes, the balance of the plant was working.

Q. Now in answer to one of the direct qeustions, Mr. Morley, by Mr. Corenman on his cross examination you spoke of a certain amount of material coming off from the buffing wheel. Now, when the wheel is in the process of being used, without being raked, is there a difference between the amount of substance that comes off the buffing wheel when you rake it as compared with what comes off while you are using it in the ordinary course of chrome

buffing?

A. Yes, very definitely. While you are raking the wheel you are deliberately employed in endeavoring to in effect tear the wheel apart on the surface to remove any high spots. It is a leveling process, but when you are buffing there is very little of the wheel itself that is removed because it is built to resist removal.

Q. Over a period of time it would eventually reduce itself to a point where you would have to throw it away and get a new wheel?

A. That is correct.

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909

Q. Now you mentioned about the committee meeting with you on September 1, 1953, bargaining committee on September 1, 1953, the day after the afternoon buffers walked out. At that time what was the discussion and what was the point at issue or the grievance which they were attempting to talk with you about?

A. The point that they were worried about and were discussing was the fact a quantity of men had left the plant and what they were endeavoring to do was to get me to agree to put them back to work the following day.

Q. In other words, the grievance then was a discussion of the afternoon buffers of August 31st?

A. If you could term it as a grievance. In other words, there was a discussion at that point. It wasn't submitted as an actual grievance. It was more off the cuff discussion.

Q. As a matter of fact it was not submitted as a written grievance until around September 18, 1953?

A. That is correct.

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910

Q. Now, you mentioned, Mr. Morley, about, under cross examination by Mr. Corenman, about the discussion which you had with Mr. Harsch and Mr. Harsch's purpose or his ideas to you or to someone else in the plant, why he might have wanted to go home after two hours on August 31st, and at some point in that questioning by Mr. Corenman, you attempted to indicate that the question was changed to some other question. Is there anything that you care to add or any further conversation between yourself and Mr. Harsch as to any reason which he might have given to you or have you stated all of the conversation which you had with Mr. Harsch on August 31st?

A. Well, I think at some point I have fairly well stated everything I talked about. As I indicated when he came into the plant before the beginning of the shift, he wished to talk about the Puente matter, not as a member of the committee or anything of that sort, but just more or less discuss th situation, as I understood it, and at that time he mentioned it was a hot day and asked me if I would agree to send the men home after the two-hour period.

Q. This is before the afternoon shift?

A. This is before the afternoon shift began, yes. And I said on that specific question, I told him no, I could see no reason for it. That generally was I think the extent of the conversation.

Q. Now, with reference to these employees which Mr. Corenman

911

asked you about that went out on strike on September 30th I believe you have answered the direct question which I asked you on direct examination that you have never discharged any of those employees?

A. That is correct.

Testimony of Charles E. Morley

Q. During the course of this strike, have you hired certain employees who have replaced certain of those striking employees?

* * * * * * *

The Witness: We have hired many employees to fill the jobs or do the jobs of people on strike.

Q. (By Mr. Langs) To the extent that you have not replaced those employees who went on strike on September 30, 1953, either by other employees or by machinery and equipment, have you discharged those employees?

A. No, we have not.

Q. Have you considered them as not your employees?

A. We are in the process of reinstating as many of those employees as we have jobs that have not been filled by men and machines at the present moment.

Q. So therefore you do not consider they are not your employees, is that right?

A. Definitely not.

912

Q. And is it the position of the Company that the employees to the extent that they have been replaced by men or machines, the employees that went on strike on September 30th, to the extent that they have been replaced by men or machines are not eligible for reinstatement?

A. It is our position that they are not eligible for reinstatement until such time as we have positions or openings that we can give them.

Q. Where their job has not been replaced by a man or machine?

A. That is correct.

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Mr. Langs: I have only one point, Mr. Examiner, and that concerns this date of September 14th, and I would like

to stipulate, if possible, with Mr. Corenman that on that date there has been a comment attributable to me, whereas Mr. Young was objecting to a particular man who might be set up on an arbitration panel if we selected arbitrators, that I was objecting to so-called long-haired boys. I do not recall talking about long-haired boys, but I definitely did make the statement that I did not feel, in the general discussion we were talking about, in the light of what might or might not be considered as proper matter of arbitration, and the reason for so stating—and I won't go into that—but I did voice an objection to those persons who had not engaged in actual direct contact with industry, and particularly I referred to those persons who were engaged in teaching, acting as college professors.

Now, if that is a term, or if that statement will be

924

acceptable to Mr. Corenman, I do not recall using the term "long-haired boys", but I do recall making that observation as to college professors and those who had not had direct contact with industry, that I did not feel they were as well qualified as others.

Mr. Corenman: I will not concede Mr. Langs didn't use the term "long-haired boys", but nevertheless, if he did use it I think he, by connotation, meant to include people such as college professors and others who he felt didn't have sufficient experience with the legal implications of the problem. I think that is what he has in mind.

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962

INTERMEDIATE REPORT AND RECOMMENDED ORDER

Statement of the Case

Charges having been filed by International Union, United Automobile, Aircraft and Agricultural Implement Workers of America, UAW-CIO, and Local 1125, International Union, United Automobile, Aircraft and Agricultural Implement Workers of America, UAW-CIO, herein jointly called the Union, a complaint and notice of hearing having been issued and served by the General Counsel, and an answer having been filed by Knight Morley Corporation, herein called the Respondent, the hearing involving allegations of unfair labor practices in violation of Section 8 (a) (1), (3), and (5) and Section 2 (6) and (7) of the Labor Management Relations Act, 1947, herein called the Act, by the Respondent was held before W. Gerard Ryan, the undersigned Trial Examiner.

At the hearing full opportunity to be heard, to examine and cross examine witnesses, to introduce evidence pertinent to the issues, to argue orally upon the record and to file briefs, proposed findings and conclusions was afforded all parties. An unopposed motion by the General Counsel to conform the pleadings to the proof in matters not of substance, such as dates, spelling of names, was granted. During the hearing, I reserved decision on the Respondent's motion to strike General Counsel's Exhibit 21 and all testimony relating thereto from the record. The exhibit was produced by the Respondent pursuant to the General Counsel's subpoena and is a notice which was posted on the time cards of some employees on Saturday, September 26, 1953, directing them to refer to the rate sheets in his department for new piece work rates. Saturday was the day following the expiration of the collective bargaining agreement and

was not a regular work day. Sometimes employees come to the plant on Saturday to clean up and usually the tool room employees and a number of foremen come in on Saturday. The time cards are on a rack located almost immediately adjacent to the factory entrance, and in a spot where employees customarily go to get their time cards and read notices. The notices remained on the time cards approximately 10 or 15 minutes. After consulting counsel, the Respondent removed the notices which were never thereafter posted and no

963

action was taken towards putting the notices into effect. There is no proof in the record that, although they could have been seen by anyone during the 15-minute period they were on the time cards, they were seen by any employees. No witness testified or was called to testify that this information was conveyed to the employees. Accordingly, the motion to strike General Counsel's Exhibit 21 and all testimony relating thereto from the record is granted.

Decision was also reserved at the hearing on the Respondent's motion to strike from the record all grievances that had arisen prior to 6 months before the complaint was issued, invoking Section 10 (b) of the Act. Under the grievance procedure there was no time limitation on when a grievance could be processed. The General Counsel contends, correctly, that the refusal to discuss and bargain on the grievances was alleged to have occurred within 6 months prior to the filing of the charge. The motion is accordingly denied.

Decision was also reserved at the hearing on the motion by General Counsel to strike the testimony of Charles E. Morley relating to the October 14 and 29 meetings on the ground that he stated conclusions and not facts; and that his testimony tended to contradict and did contradict a

A. I am not Mr. Bernia.

Q. You are Mr. Morley?

A. Yes.

Q. I say you testified Mr. Bernia is the office manager and also the purchasing agent? That's correct?

A. That's correct.

Q. Does he not also sit in bargaining sessions with the Union bargaining committee?

A. He has on many occasions.

889

Q. Now, directing your attention to General Counsel's Exhibit 13-A, which is an insurance form of the Aetna Life Insurance Company. I believe you testified that this is a form furnished by the insurance company to Knight Morley Corporation, and which is used by Knight Morley Corporation in notifying the insurance company of cancellations on the group insurance, isn't that correct?

A. I believe so.

Q. Now directing your attention to the names of several employees beginning with Helga Anderson on section or rather on Exhibit 13-C, and then continuing through the name shown on 13-D, and continuing through the name shown on 13-E and continuing on through the names shown on 13-F, and continuing on through the names shown on 13-G and continuing through the names shown on 13-H, and on through the names shown on 13-I, I believe you testified or am I correct in assuming that the group insurance policies of these employees with respect to them, you notified the Aetna Life Insurance Company by virtue of this form to cancel the group insurance on those employees on October 5, 1953, is that correct?

A. The contract under which we operated with the Aetna Company or which we had with the Aetna Company had certain provisions and those have been read into the

record, which called for notification when cessation of actual work stopped, and specifically gave exceptions that could be allowed, and since none of the employees which you mentioned had continued active work, in other

890

words, there was a cessation of active work, we had no course but to submit these forms indicating the last day that the people or indicating in our estimation when there was a cessation of actual work. The day however, on which this was sent, apparently was October 10th.

Q. I see. This report indicates it was submitted on October 10th. That shows the date of notice October 10, 1953, that's correct. Now directing your attention to a column which is headed, Column A, "Date employment terminated" with respect to each of these employees, you have indicated that the date of termination of employment was October 5, 1953. That is correct, is it not?

A. That is the space that was provided for indication of the last day prior to the cessation of actual work, and in that column the dates to which you refer were listed.

Q. And you did that, that is the Company did that with the idea that it complied with the termination clause in the insurance policy, identified as General Counsel's Exhibit 11, which reads as follows: "The insurance of an employee shall automatically terminate upon termination of employment. Cessation of active work in the classes of employees eligible for insurance shall be deemed termination of employment," and then it enumerates certain exceptions. Now you relied on that clause in the insurance contract, and it was the intention of the Company to give notifications in accordance with the contract terms, that is insurance contract terms, is that correct?

891

A. Yes, that is correct.

Testimony of Charles E. Morley

Q. Now you know of course these employees who a enumerated on there as having terminated employme October 5th, that those employees were engaged in a strik is that not true? You knew that at the time you sent th notice on October 10th to the insurance company that th employees who you notified the insurance company te minated October 5, 1953, were in fact engaged in a strike

A. I have explained, in sending these forms to th insurance company, we were simply following their def nition and their policy, in other words, as required.

Q You were attempting to follow their definition o what constituted cessation of work, is that correct?

A. That is what is specified in the policy.

Q. So it is your opinion then there was complete ces sation of work for these employees effective October 5 1953, is that not right?

A. They weren't working at that time. That is, they were not performing actual active work.

Q. That is correct, and why did you select the date October 5th as the date for cessation of employment, ces- sation of active work?

A. Because we had sent the employees a letter re- questing that they return to work by that date if it was their intention.

Q. That is the letter which has been identified in the record as General Counsel's Exhibit Number 9?

892

A. That is correct.

Q. And it was the intention of the Company then in notifying the insurance company to cancel the group in- surance as of October 5th, that as of that date there was active cessation of work for the employees named, is that correct?

A. As I have stated, it was simply our contention or

intention, rather, to follow the terms of the policy.

Q. And you relied upon this notice which you had sent to the employees, this notice identified as General Counsel's Exhibit 9, as the cut-off date for those employees, the cut-off date which you considered as the date of active cessation of employment, is that correct?

A. We felt there was a cessation of active employment as of that date.

Q. As of October 5th? And you felt that because you had notified these employees by your letter, General Counsel's Exhibit 9, that if they did not return to work by—I will read the letter to you "In the event you do not report for work on the regular shift by Monday, October 5, 1953, the Company will consider that you have quit your employment and you will be replaced by other or new employees." That's correct?

A. When they did not return to work following receipt of this letter we of course had no way of knowing when they would return to work, and we felt at that point there was a cessation of active work on their part.

893

Q. Now, directing your attention to General Counsel's Exhibit 13-A, there appear the names of these afternoon buffers whom you considered as quits as of August 31st. I will ask you whether or not you did not notify the Aetna Life Insurance Company to cancel the group insurance of these afternoon buffers who were discharged on August 31st, to cancel their insurance, effective August 31, 1953, is that not correct?

A. That's what it so states here, yes.

Q. And your reason for requesting the insurance company to cancel their insurance effective August 31st was the fact that you considered that as of August 31st there had been an active cessation of work, is that correct?

II. The labor organizations involved

The complaint alleged, the answer admitted, and I find that International Union United Automobile, Aircraft and Argicultural Implement Workers of America, UAW-CIO, and Local 1125, International Union, United Automobile, Aircraft and Agricultural Implement Workers of America, UAW-CIO, herein jointly called the Union, are labor organizations within the meaning of the Act.

III. The unfair labor practices

Introduction

Following its certification by the Board on April 20, 1950, the Union and the Respondent on October 20, 1950, entered into a collective bargaining agreement which by its terms was to expire on September 5, 1953.[1]

966

On June 24, the Union gave the Respondent a 60-day notice of intention to modify the contract. On June 26, the Respondent replied and gave written notice of its desire to terminate the contract on September 5. On June 21, the Union notified the State and Federal mediation services of the dispute. Negotiations for a new contract as well as unsettled grievances began on July 28 and continued thereafter until October 29. By an extension agreement dated August 24, the contract was extended to September 25, at which time the contract terminated; and since then there has been no further contract between the parties.

Pertinent Provisions of the Contract Including Grievenace Procedure and No-strike Clause

Section 8(a) Step 1. A grievance of an employee, or group of employees, shall be taken up by the em-

[1]Unless otherwise indicated, all dates hereinafter mentioned refer to the year 1953.

ployee, or group of employees, with the Group Steward and then, together, with the Departmental Foreman. If a satisfactory settlement cannot be arrived at with the Foreman, the grievance shall be then referred by the Steward to:

1. The Chief Steward, if the grievance originates on a shift where there is no committeeman.
2. A committeeman, if the grievance originates on a shift where a committeeman is working.

967

(b) Step 2. The Chief Steward or a Committeeman (whichever the case may be), accompanied by the Steward, shall attempt to work out a solution with the Foreman. If no satisfactory settlement the Chief Steward (or Committeeman) may then reduce the grievance to writing.

(c) Step 3. The grievance written or oral shall then be referred by the Union to the Group Committeeman, who shall then take the grievance up with the Plant Superintendent for discussion and possible settlement, and the position of the Superintendent shall within twenty-four hours, be written on the grievance form if presented in writing.

(d) Step 4. If, as a result of Step 3, the grievance remains unsettled the Plant Shop Committee shall then further process the grievance in writing in a meeting with Plant Management, as hereafter provided for, who will give its answer in writing within five days thereafter.

(e) Step 5. If the grievance remains unsettled, the Union or the Company may present it to an arbitrator mutually agreed upon by the Company and the Union, if no arbitrator is agreed upon, then an arbitration panel consisting of three members; one member to be chosen

by the Company and one member to be chosen by the Union. These two members shall choose the third member. The decision of the arbitration panel shall be final and binding on both parties and the cost of the third member shall be borne equally by the Company and the Union. The arbitration panel may not add to or subtract from the terms of this agreement.

968

Section 14.. It is agreed between the Union and the Company that during the term of this agreement there shall be no strike, slowdown or other stoppage of work, and in the event the Union and the Company are unable to settle a particular grievance it shall be settled by arbitration pursuant to Section 8 (e) at the request of either party in writing.

Section 15. Should the Company believe that any provisions of this contract have been violated, or that it has a grievance against the Union, or any of its members, it shall reduce the grievance to writing, and present it to the Shop Committee for discussion and consideration. If no satisfactory adjustment results the Company and the Committee, together with a representative of the International Union, shall meet as promptly as possible and attempt to reach a satisfactory solution to the problem involved. Failing in this attempt the matter may then be presented by the Company through the arbitration procedure as hereinbefore provided.

Section 24. An employee shall lose his seniority rights and be considered terminated from his employment when he or she (a) quits of his or her own accord; (b) is discharged for cause; (c) unexcused absence for more than three (3) consecutive regular working days or more than five (5) regular working

days in any calendar month, providing that if any employee habitually takes advantages of such five (5) day period, he shall be subject to discharge. . . .

Section 33. Dishonesty, insubordination, failure to do appointed work, failure to comply with the agreeed grievance procedure, failure to report for work . . . shall be sufficient cause for discharge. In cases involving disciplinary lay-off

969

or discharge the Company shall inform the Union the reason for such disciplinary action. The employee may be sent home and his pay terminated effective as of the time the disciplinary action is taken by the Company.

Section 34. In the event it is found through recourse to the grievance procedure contained herein that an employee was improperly discharged or laid off he shall be reinstated with full seniority rights and be reimbursed for all time lost.

Section 35. Employees involved in discharges or disciplinary lay-offs shall have the right to attend a meeting between the Shop Committee and the Plant Management which are held in connection therewith.

Section 45. The Company and the Union declare it to be their intention to prevent any suspension of work during the term of this agreement due to labor disputes. To effectuate this intention the Company agrees that it will not lock-out any of its employees or otherwise change prejudicially the terms and conditions of their employment in connection with any dispute concerning wages, hours and working conditions.

Section 46. The Union agrees that it will not cause any strike or work stoppages during the term of this agreement; that if any of the employees within the

bargaining unit covered by this agreement acting without authorization or approval of the Union should engage in such a work stoppage or strike, the Union will promptly direct such employees to resume work and will take all appropriate and feasible steps to terminate the strike.

970

Section 47. The Union agrees that during the normal course of the grievance procedure, the Shop Committee will not interfere with the Company's instructions or orders, provided such instructions or orders that may be contrary to the terms of this agreement may be brought up by the Union as a grievance.

Section 53. The right to hire, promote, transfer, discharge, discipline, and to maintain efficiency of employees is reserved to and is the responsibility of the Company. Such rights shall be exercised in accordance with the terms of this agreement and shall not be employed to adversely affect the rights of employees as provided for in this agreement.

Section 54. The Company agrees to maintain such sanitary and healthful working conditions and provide such safety devices as are required by the laws of the State of Michigan. . . .

The Walkout of the Buffers on the Afternoon Shift on August 31 for which they were Discharged

The amended complaint alleged that on or about August 31 certain employees "concertedly left their places of work because of their good faith belief in and/or the existence of abnormally dangerous conditions of work resulting from a failure of a blower system required by State law for the employees protection" and that on or about the same day the Respondent discharged them because of such concerted

activity.[2] The answer to the

971

amended complaint denied such allegations except that it admitted that "certain employees of its buffing room unlawfully left their employment in violation of the company rules and the contract between the Union and the Company on August 31, 1953."

The Respondent is engaged in the manufacture of rear view mirrors, locking gas caps and other automobile accessories at its plant in Richmond, Michigan, and sells its products to several automobile manufacturing companies.

The departments operating in the plant are the tool room, die-casting, plating, buffing, stamping, assembly and miscellaneous. In the buffing room are 10 buffing jacks, 3 rotary automatic buffing machines, and 1 straight line buffing machine.[3] No toxic materials were used in the buffing operation. There was a ventilating or blower system attached to the buffing jacks to remove particles of dirt, dust, and lint from the buffing wheels while the buffing operations are taking place,[4] and the blower has a capacity of 14,430 cubic feet per minute displacement of air, and the air is removed through a cyclo-wash by means of a paddle type fan. When operating properly the ventilating or blowing machinery is adequate to perform efficiently in

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[2]Schedule A of the amended complaint, as further amended at the hearing, named 17 employees, viz:

L. Basnow, Norwood Beier, L. Burns, W. Eggert, Edward Gierke, Harry Harsch, W. Jackowski, D. McCue, E. Meyers, Joe Muniz, Lester Porrett, H. Schultz, Russell Simons, Tommasaewski, Phillip M. Whittaker, J. H. Willings and John N. Willing.

[3]The straight line buffing machine was not in use on August 31 and was blocked off from the blower system.

[4]The blower system is required by State law. The buffing wheels are partially enclosed by a hood. The particles resulting from the buffing operations are caught by the hood, the large, heavy particles falling to the bottom of the hood, the lighter particles being sucked into the blower pipe attached to the back of the hood and carried out of the room. The suction in the blower system is created by the action of the paddle wheel fan situated in a housing on top of the roof.

connection with the buffing room. The buffing room is approximately 25 feet by 80 feet with a 12-foot ceiling and is located in the northeast corner of the building. Along the north wall and the east wall of the buffing room approximately on-half of the fall area is glass with a row of continuous windows in each wall. There is a door in the north wall large enough to roll a wheelbarrow through and 2 large doors in the south wall 12 feet to 20 feet wide.

On Friday, August 21, the blower broke down and the buffers remained idle for 1½ hourse until it was repaired about 10 p.m. On Friday,

August 28, fire destroyed the switch box controlling the blower and because it could not be repaired the buffers were sent home by the superintendent at approximately 10:30 p.m. On Saturday, August 29, a new switch box was installed but in the process the wires were reversed on the motor running the blower fan which resulted in reducing the efficiency of the blower 75 percent.

When the buffers on the day shift reported for work at approximately 7 a.m. on Monday, August 31, it was found that the blower system was not carrying away the dirt and dust from the buffing operations. Complaints were made to John Vandelberg, the day foreman. Employee Clarence Kammer testified without contradiction that he was the wheelman on the day shift whose duties require him to set up the polishing wheels for the buffers; that he told Vandelberg on the morning of August 31 there was something wrong with the blower; that lint came into his wheel room (the wheel room is separated from the buffing room by a wire mesh) and flew all over the place, depositing about one-quarter inch of lint in his glue dish. Vandelberg told him to do a few more wheels and then Vandelberg told Kammer to forget it.

At 9 o'clock in the morning of August 31, the buffers on the day shift were sent home, except for 3 men who stayed and cleaned the blower.

A short time before the buffers on the afternoon shift were to start work on August 31, Harry Harsch, president of the Local, during a conversation in the plant on another matter with Charles E. Morley, president of the Respondent, remarked to Morley that it was a hot day and suggested that the buffers on the afternoon shift be allowed to go home after working 2 hours which was the same period of time which the morning shift had worked. Morley replied that was not practical as the morning shift of buffers had been sent home in order to clean the blower system which had not been cleaned the previous Saturday; but the blowers had now been cleaned and there was no reason why the afternoon shift should not work.[5]

When the buffers on the afternoon shift started working at 3:30 o'clock they noticed that the blower was not sucking the dirt and dust as it did normally. Norman Beier, a buffer working on the afternon shift, testified that while working he wore 2 pairs of gloves (to protect his hands from the hot metal) and an apron and there was a light fog of dust and dirt in the air and about ¼ inch of dirt and dust settled on his arms. He testified that the thermometer on the second machine in the buffing room registered 110 degrees; that there was about 1 inch of dirt on the floor around his machine which was not usually there and that when he held some lint in his hand in front of the blower pipe the suction was insufficient to draw the

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[5]It had been the custom for the Respondent to clean the blower system on Saturday (a nonworking day). Men were selected for Saturday work according to seriority. On Saturday, August 29, the Respondent was unsuccessful in getting any employees to come to the plant to clean the blower.

lint from his hand. He further testified that his reason for leaving was his belief as well as all the rest that it was injurious to their health to breathe the particles of lint and abrasives into their lungs and be believed it would cause lung ailments. Lester Porrett, an afternoon buffer, testified that the outdoor temperature was 98 degrees in Richmond when he came to work; that while working the dust became thicker, irritating his nose and throat and requiring him to

974

clear his throat and spit out the dust. He testified that it was the decision of the entire group that it was advisable to leave protect their health and he left his work to protect his health because be believed the conditions were injurious to his health in that they would cause lung, nose, and throat trouble. Phillip M. Whittaker, an afternoon buffer, testified that he left work because he thought the working conditions would be injurious to health. Russell Simons, an afternoon buffer, testified the day was hot and humid; the lint was flying and the room was foggy with the dust. He testified that he left work because it was disagreeable to work; it was hard on the lungs and not good for his health. John N. Willing, an afternoon buffer, testified that there was no suction at all although the blower was running; that he had polished about 200 pieces or arms and then when he started to buff, it was more than he could take as the dirt and stuff came out on him, blowing all over him and all over the buffing room; all of which made it hard for him to breathe. He testified that during the course of his work and afternoon he went outdoors a couple of times to get a breath of air and several others did so too. He testified that he was working with 2 pairs of gloves on, working with "pretty hot stuff"; the dirt and fuzz got into his nose; that he could not pull his gloves

off to relieve his nose and instead of wiping it he only got more in it. He testified further that he knew such conditions were not doing him any good and with the heat and the dust he could not work under those conditions. He complained to the steward, Jo Muniz, after which Superintendent Hicks and Morley checked the draft with cigar smoke, but the smoke, according to Willing, was not taken away. He testified that he (Willing) suggested to Morley that perhaps the wires were hooked up wrong on the blower system because it was not "reving" up there the way it should;

975

but that Morley replied "Don't you think my mechanics know what they are doing"? Willing answered that once he (Willing) had the wires crossed on a motor and it did not turn over the way it should but when he changed the wires the situation was corrected. He testified further there was discussion among the men and they decided if the blower was not going to be fixed they would not work the way it was and they decided they would go home until it was fixed. Edward Gierke, an afternoon buffer, gave as his reason for leaving work that it was too hot and too dusty to work. Harry Harsch, an afternoon buffer and the president of the Local, testified that he left work because it was very dangerous to his health; that he had a chance of getting lung or stomach infection; and he was made uncomfortable because of the heat and the dust sticking to him and he went home in protest of the blower not working. Joe Muniz, an afternoon buffer and the chief steward of the Local, testified the thermometer read about 108 degrees in the buffing room. Following complaints from his coworkers, Muniz complained to Foreman Wiswell.[6] Other buffers requested Harry Harsch to take the

[6]Foreman Wiswell is the father of employee Charles R. Wiswell.

matter up with Morley. He testified that following Harsch's complaint, the blower system was checked by Morley, Superintendent Hicks, Foreman Wiswell, Muniz and Harsch. Morley used cigar smoke for the test. Morley testified that he thought the draft carried away the smoke. Other witnesses disagreed that the cigar smoke was sufficiently carried away. In any event, a further test was made by letting some water out of the water tank and cyclo-wash to see if that would remedy the situation but it failed to correct it.

Morley concluded there was nothing wrong with the operation of the blower system. Morley notified the buffers through Superintendent Hicks, and then notified them personally, that they would have to work and if they left it would be in violation of the no-strike clause and contrary to the company rule against absences without permission of the superintendent. The entire shift of buffers then quit work and walked out of the plant at approximately 5:15 p.m.

976

The events of September 1

Employees Kammer, Wiswell, Garlick, Fox, Fasbender and Zembol testified that there was no improvement in the efficiency of the blower system during the morning shift on September 1. Wiswell testified that he was the last person coming off the day shift on September 1 and he saw 2 maintenance men changing the wires on the switch box. Herbert Fox worked as a buffer on the day shift. He testified that on September 1 he asked the foreman what was wrong with the blower system and Foreman Vandelberg said that he did not know. Vandelberg then told Fox he better get to work or he would fire him. Fox replied that he was not going to work in that dust, that he was

afraid of "t.b." and thereupon quit.[1] Employee John Curzydlo testified that when he went into the buffing room on September 1 after the day shift had finished, he heard Morley say "just take it easy and we will have the blowers fixed in a minute." About that time, Morley testified that he suggested to the maintenance men that they change the position of the wires that operate the motor and that was done. When the wires had been changed the blower system thereafter operated normally. Morley testified that the maintenance crew did not work on the afternoon shift. Although the difficulty had then been located and the wiring had been corrected on the motor running the blower, Morley refused to permit the afternoon buffers to work when they reported at their regular starting time on September 1.

The General Counsel introduced the testimony of William Frederick who holds the degree of Doctor of Science from the Unversity of Michigan, in 1936. While not a Doctor of Medicine, since 1946, Dr. Frederick has been Director of the Bureau of Industrial Hygiene of the Department of Health in the City of Detroit; Resident Lecturer in Industrial Health in the School of

977

Public Health at the University of Michigan and an Instructor in Industrial Health at Wayne University College of Medicine, Detroit. He is experienced from the industrial hygiene point of view, with the operation of buffing and polishing. Having qualified as an expert witness Dr. Frederick testified that based on a total exhaust capacity of 13,500 CFM the quantity of air exhausted at each hood would be sufficient to prevent excessive contamination of the workroom air by fine dust; but if the paddle

[1] Fox is not named in the complaint.

fan is running in reverse, then the air exhausting capacity or efficiency of the fan would be reduced from 20 percent to 30 percent of normal capacity, thus resulting in a loss of efficiency from 70 percent to 80 percent; and at that point its effectiveness in removal of fine particles from the room would be reduced to nearly zero. Dr. Frederick further testified that excessive exposure to the dust, vapors, and particulate matter of the polishing and buffing operations for periods of short duration may produce irritations of the nose and throat, sore throat, coughing and similar complaints and that prolonged exposure over years will produce disease of the lungs which will be detrimental to health. He testified that inhalation of the polishing compound known as Tripoli will produce changes in structure of the lung which interfere with its ability to transfer oxygen of the air to the bloodstream in a slow chronic fashioning but that this change requires a long period of time. Dr. Frederick testified that assuming a temperature in the buffing room under 98 degrees, no ventilation at all from the blower, and no toxic materials in use, then there would be no immediate danger with respect to exposure to the particulate matter in the air; that the dust would not place the health of the worker in immediate peril because of inhalation. He testified further that it is quite probable there would be some minor irritations of the nose and throat which would be uncomfortable but not disabling, with the possible exception of allergic individuals or people with asthma. Dr. Frederick testified that it is frequent to find centrifugal fans running in reverse, but it is a simple matter to correct; that when wires are reversed it results in the motor being

connected incorrectly to the electrical circuit and the alternation of these will reverse the direction of the motor.

Dr. Frederick stated the reasons in the record why in the case of centrifugal fans, the removal of the fan results in a loss of 70-80 percent and when the blower system is reduced from 70-80 percent the number of air changes is reduced from 35 air changes per hour to 5, 6 or 7 air changes per hour which are wholly inadequate. In answer to an hypothetical question, he stated that assuming an inside temperature of 110 degrees in the buffer room, the blower fan running backward, a hot, muggy, humid day outdoors with humidity at 40-50 percent, windows open along the wall, a 24" blade fan directed in 1 position creating some movement, then an ordinary group of workers would be subjected to severe physiological stress from the heat and it would be expected that at least some would experience acute physiological response.[8] He described that response in terms of acute heat disease embracing heat prostration or heat shock and heat cramps. He testified that an inside temperature of 110 degrees, an outside temperature in the "nineties" and a loss of efficiency from 70-80 percent in the blower would constitute conditions of danger to the men of heat disease, i. e., heat stroke, heat shock, heat cramps and increase in body temperature or pulse rate; and that within a relatively short period (1, 2 or 3 hours) they might reach the end of their capacity to work.

On cross-examination, Dr. Frederick stated that in his opinion there would be no injury with respect to the particulate matter in the air. He stated that assuming an inside temperature of 110 degrees and humidity of 40-50 percent he would expect workers to show signs of heat problem in 1, 2 or 3 hours; and if there were no symptoms of heat disease, including increase in body temperature

[8]There is no evidence in the record of any symptoms of heat disease having been experienced by the buffers.

stipulation between the parties. The motion is denied. Such testimony should remain so that it may be evaluated in the light of the whole record.

Decision was also reserved at the hearing on a motion by the Respondent to dismiss paragraphs 8-19 of the amended complaint to the extent that they involve grievances or matters which arose prior to the termination of the contract, as they are not properly before the Board for consideration, in view of the grievance procedure contained in the collective bargaining agreement. That motion is disposed of in accordance with the findings and conclusions hereinafter set forth. At the conclusion of the hearing, all

964

parties participated in oral argument. All the parties have filed briefs.

Following the close of the hearing, the General Counsel and the Respondent moved to correct the record and there being no opposition to the motions, except with respect to correcting page 517, the record is corrected as follows: page 543, line 14, change "offered" to "authored"; page 550, line 12, change "forty-five" to "four to five"; page 864, line 3, change "1954" to "1953"; page 868, line 21, change "hot" to "high"; page 872, line 19, change the period to a question mark at the end of the sentence (the witness repeated the question asked in the form of a question before proceeding to answer); page 942, line 4, change "damn you" to "adamant." The motion to change "seventeen thousand five hundred" on page 517, line 14 is denied. The witness was asked if he **knew** the capacity of the blower system in cubic feet per minute and the record contains an answer "I **think** it is seventeen thousand five hundred cubic feet a minute." (Emphasis supplied.) The best evidence is the documentary evidence in the record which shows the capacity was 14,530 cubic feet per minute. Any approximation

given by the witness, testifying from memory, would be less reliable than the documentary evidence.

Upon the entire record in the case and from my observation of the witnesses, I make the following:

Findings of Fact

I. The business of the Respondent

The Respondent is now and at all times herein mentioned was a corporation organized and existing under the laws of the State of Michigan with its principal office at Detroit, Michigan, and for many years and at all times herein mentioned it operated a manufacturing plant engaged in the production of automobile accessories at Richmond, Michigan. In the course and conduct of its business operations during the 12-month period ending

965

December 31, 1953, which period is representative of all times material hereto, the Respondent purchased raw materials in excess of $100,000, of which approximately 50 percent was shipped in interstate commerce to Respondent's plant at Richmond, Michigan, from points outside the State of Michigan. During the same period the Respondent manufactured and sold finished products value in excess of $200,000, of which not less than 25 percent was shipped in interstate commerce from its aforesaid plant at Richmond, Michigan, to points outside the State of Michigan; and during the same period, the Respondent sold finished products valued in excess of $100,000 to customers in Michigan, each of whom, in turn, shipped goods outside the State of Michigan valued in excess of $25,000. The complaint alleged, the answer admitted, and I find that the Respondent is engaged in commerce within the meaning of the Act.

the afternoon superintendent, Hicks, came to his office and advised him the men were going on strike, and that Harsch was fostering a walkout or strike. Morley testified that he told Hicks to talk to the men and tell them if they walked out they would be violating the company rule respecting absences without permission and they would also be violating the contract, and that if they left they would be out of work. A little later he personally informed the men to the same effect. Morley testified that he estimated the temperature in the buffing room that afternoon to be in the "nineties," but did not check a thermometer; that the buffing room was cooler than outside because it was open and well ventilated (although he did not go outside during the afternoon); that between 3:30 and 5:30 in the afternoon the temperature dropped 18 or 20 degrees, but again he did not consult a thermometer. He admitted that at an unemployment insurance

981

hearing held on January 7, 1954, he testified that he had no idea what the temperature was on August 31 at 9 a.m., 3 or 5:30 p.m., without referring to a record of some kind adding, "I do know it was a fairly warm day and we had many warm days at that time." Morley testified further that about 5:30 p. m., on August 31, the doors and windows in the buffing room were open and a 24" pedestal fan with 4 blades was circulating the air. He testified that the buffing room is on the extreme northeast corner of the building on Division Road which runs east and west and the plant parallels the road; that in the afternoon the sun would not be shining upon any wall in the buffing room. Morley testified there are 4 inches of concrete above the pipe in the buffing room floor and was not aware of any heat from that pipe causing interference in work. He testified that he did not notice any fog or dust in the buffing room about 5 o'clock

in the afternoon of August 31, and has never noticed an actual fog in the room at any time; that he did not see an inch of dirt on the floor of the buffing room at 5 p.m., or at any other time. He testified that when a buffing wheel is raked a certain amount of cotton would be flying which would stay in the air temporarily; but any dirt or particles from the wheel or articles being polished are heavier than air and would fall to the ground. Morley further testified that all other departments in the plant on August 31 worked full time except the buffing room and that when the afternoon buffers walked out, he transferred 2 or 3 other employees to the buffing operations. On cross-examination, Morley testified that he was told the buffers wanted to leave work because of the heat and because the blowers were not working. He testified that he learned of no complaints on the morning of September 1 concerning the blower system. When questioned further on that point as to whether he recalled complaints on September 1 that the blowers were not working properly, he answered: "I don't think there were any complaints about it or it was expressed to me that way. The question was raised as to whether or not they were working properly, and I think everyone was as much in the dark on the matter as I was as to whether they were or weren't." He

further added that undoubtedly his opinion was asked by the committee on September 1 as to whether or not the blowers were working properly and in response told them he was having the maintenance crew investigate as thoroughly as possible. Morley testified he is not sure whether he discovered any difficulty or not, because he does not know how the fan was running before but at shift time he suggested that the fan be reversed to see if it made any appreciable difference and that was done. However he

admitted that at the unemployment insurance hearing above referred to he had testified that after the day shift left he had the maintenance department check the wiring that had been replaced on Saturday and it was determined that the fan was running in the opposite direction from which it normally ran so Morley had them change the wires before the afternoon shift started to work on September 1. Morley testified that in his opinion (he did not qualify as an expert witness) it makes no difference in which direction the fan is operating since it will operate efficiently in either direction.

Conclusions with Respect to the Discharge of the Afternoon Buffers on August 31

I find no merit in the Respondent's contention that the Board has not, or should not exercise jurisdiction with respect to the discharge of the buffers, because the Union did not exhaust a grievance procedure by seeking arbitration as provided by the contract. There never has been a case holding that a contractual provision for grievance procedure thereby deprives the Board of jurisdiction. All the decided cases involved the question whether or not, in view of the grievance procedures contained in contracts, the Board will, in the exercise of its discretion, assert jurisdiction. I believe the Board should assert its jurisdiction with respect to the unfair labor practice alleged that the buffers herein were discharged in violation of the Act, notwithstanding that neither side invoked arbitration; particularly in view of the fact that this case presents, for the first time, an interpretation of the saving provision

contained in Section 502 of the Act. In Monsanto Chemical Company, 97 NLRB 517, 205 F. 2d 763 (C.A. 8) the Board disregarded an arbitration award and found that the

discharge of an employee violated the Act. In N. L. R. B. v. Walt Disney Products, 146 F. 2d 44 (C.A. 9), the Respondent there contended that because there was a collective bargaining agreement with the Union containing a grievance and arbitration procedure for the settlement of disputes, the alleged unfair labor practice of discharging an employee for his union activities could not affect interstate commerce and therefore the Board had no jurisdiction over the proceeding. Holding that the Board may exercise jurisdiction in any case of an unfair labor practice when in its discretion its interference is necessary to protect the public rights defined in the Act, the Court stated at page 49:

> Our opinion in Consolidated Aircraft Corporation v. N. L. R. B., 1944, 141 F. 2d 785, 787, does not support respondent's position. Therein, the Court merely pointed out that the employer acted in good faith in asserting its view as to the wage rate controlling the Sunday work of its third shift and concluded that the employer had not interfered with, restrained, or coerced its employees' rights of collective bargaining guaranteed in 29 U.S.C.A. 157. *No inference can be drawn from such a conclusion that where an unfair labor practice within the terms of the National Labor Relations Act exists, the grievance and arbitration procedures established in a prevailing collective bargaining agreement must be exhausted before the NLRB will accept jurisdiction over the matter.* (Emphasis supplied.)

In Mastro Plastics Corp., 103 NLRB 511, 214 F. 2d 462 (C.A. 2) cert. granted January 10, 1955, the Board, notwithstanding the grievance procedures contained in the collective bargaining agreement affirmed the

Trial Examiner who, relying on Monsanto Chemical Company, supra, and cases therein cited, held that an employee's discharge as an unfair labor practice was outside the scope of any arbitration provision, not only because it did not involve a difference as to the meaning, interpretation, operation, or application of any clause of the contract thereof, but because as a matter of law the forum for unfair labor practice adjudication is not contract arbitration but the Board.

In Wagner Iron Works, —— F. 2d ——, (C. A. 7), decided March 7, 1955, the Court stated:

> Furthermore, arbitration provisions in a bargaining agreement cannot oust the Board's jurisdiction to prevent unfair labor practices. As we said, in N. L. R. B. v. International Union, etc., 194 F. 2d 698, 702, "the Act conferred upon the Board exclusive jurisdiction to prevent unfair labor practices * * *. The Board's exclusive function in this field may not be displaced by action before State agencies or by arbitration."

Accordingly, I reject the Respondent's contention that the Board has not or should not exercise jurisdiction with respect to the discharge of the buffers because the grievance procedure provided by the contract had not been exhausted.

The next question presented is whether or not the quitting of work by the buffers on the afternoon of August 31 was protected concerted activity or whether it was a strike in violation of the contract and therefore unprotected activity. The General Counsel's theory is that the walkout of the buffers was not a strike in violation of the contract but was a quitting of work within the meaning of the saving provision in Section 502 of the Act and therefore not

a strike. The Respondent contends that the quitting was a strike in violation of the contract and therefore it was free to discharge them.

985

The definition of a strike is contained in the Act as follows:

> Section 501. When used in this Act— (2) the term "strike" includes any strike or other concerted stoppage of work by employees (including a stoppage by reason of the expiration of a collective-bargaining agreement) and any concerted slowdown or other concerted interruption of operations by employees.

The saving provision of Section 502 provides:

> . . . nor shall the quitting of labor by an employee or employees in good faith because of abnormally dangerous conditions for work at the place of employment of such employee or employees be deemed a strike under this Act.

The following findings and conclusions are based on the credited testimony of Kammer, Harsch, Beier, Porrett, Simons, Willing, Muniz, Charles Wiswell, Garlick, Fox, Fasbender, Zemboi, Curzydlo and Dr. William Frederick.

Dr. Frederick based his testimony on the assumption that the capacity of the blower system when operating properly was 13,500 cubic feet per minute. I find on the documentary evidence in the record that the capacity was 14,430 cubic feet per minute. This difference is negligible insofar as the number of air changes per hour is concerned, because if 13,500 CFM will produce 35 air changes per hour (as testified to by Dr. Frederick), as a matter of arithmetic, then 14,430 CFM will produce 36.67 air changes per hour; and if 25 percent of 13,500 CFM (3375 CFM)

produces an average of 6 air changes per hour, then 25 percent of 14,430 CFM (3608 CFM) would produce 6.41 air changes per hour, which Dr. Frederick testified is wholly inadequate.

986

The weather reports in the record for Detroit City Airport and Willow Run Airport contain temperature and humidity readings taken at 28 minutes after the hour. Richmond, Michigan, is located 30-35 miles northeast of Detroit. Willow Run Airport is located about 32 miles west of Detroit.

The weather reports for August 31 disclose the following:

	Detroit City Airport humidity	Detroit City Airport temperature	Willow Run Airport temperature
2:28 p. m.	40%	96	96
3:28 p. m.	42%	95	89
4:28 p. m.	63%	88	83
5:28 p. m.	86%	76	80
6:28 p. m.	87%	75	77

I can not and do not draw any conclusions as to what the inside temperature was in the buffing room between 3:30 p.m., and 5:15 p.m., on August 31 from the temperature and humidity at Detroit City Airport and Willow Run Airport. During those 2 hours, the weather reports show that the temperature at Detroit City Airport dropped 19 degrees while the humidity increased from 42 percent to 86 percent; whereas in Willow Run Airport the temperature dropped only 9 degrees. The weather reports at 2:28 p.m., show that at both airports the temperature was the same (96 degrees). During the next hour, the temperature dropped 1 degree at Detroit but 7 degrees at Willow Run. From 4:28 to 5:28 p.m., the

temperature dropped 12 degrees at Detroit and only 3 degrees at Willow Run. Between 2:28 and 4:28 p.m., Detroit was 4 degrees cooler than Willow Run. Furthermore, counsel stipulated that while rain fell in Detroit in the evening of August 31, there was no rain in Richmond, Michigan. I have set forth the above computations to show how it is impossible for me to arrive at any conclusion as to what the outside temperature was in Richmond, Michigan, based upon the weather reports. My findings are based on the testimonial evidence of witnesses that the outside temperature shortly before 3:30 p.m., on August 31, was 98 degrees; and the inside temperature was as high as 110 degrees at least for some part of the time while the afternoon shift was working. I do not accept the testimony of Charles E. Morley, that there was a drop in temperature of 18-20 degrees during the afternoon of August 31. He testified at the unemployment insurance hearing held on January 7, 1954, that he did not know what the temperature was at 1, 3, or 5 o'clock on August 31 without consulting some record; that he knew it was a hot day. At the hearing, Morley testified that the temperature in the plant had been falling during the afternoon and he did not remember that he had gone outdoors during the afternoon. If Morley had consulted a record before testifying at the hearing before me, it does not appear in the record.

I find that on August 31, 1953, the outside temperature in Richmond, Michigan, shortly before 3:30 p.m., was 98 degrees. The inside temperature in the buffing room at least for part of the time was 110 degrees between 3:30 p.m., and 5:15 p.m. The blower system in the buffing room was operating at 25 percent capacity because the wires to the motor running the blower were reversed. At 25 percent capacity there resulted only 6.41 air changes per hour in-

stead of 36.67 air changes per hour if it had been operating at capacity. Contributing to the inside temperature were a steam pipe in the room, friction of the metal against the polishing and buffing wheels, opera-

988

tion of several electric motors, solar heat on the building, and the bake oven in the wheel room. As the result of the failure of the blower system to operate at capacity, the ventilation of the buffing room became wholly inadequate to remove fine dust particles from the air; and because the air motion in the room was insufficient, the ventilation was inadequate to cool the buffers since the heated air in the room was not expelled nor the cooler outdoor air brought in. Dust, lint, dirt and abrasives were flying all over the room, into the faces, noses, and throats of the men, covering their arms and bodies and making it difficult for them to breathe. Some spat out the dirt; dust and lint piled up around the machines; and some used compressed air to blow the dirt and dust off their bodies. At times the air was so full of lint that it resembled a fog.

Based on the expert testimony of Dr. Frederick, the inside temperature of 110 degrees, outside temperature in the "nineties"; humidity 40-50 percent, a loss of efficiency of 75 percent in the blower system, constituted conditions of danger to the buffers of heat disease and that within 1, 2 or 3 hours they might reach the end of their capacity to work. The record shows they quit after one and three-quarter hours. While, according to Dr. Frederick's testimony, there was no immediate danger by the inhalation of the dust over such a short period of time, I find that the buffers in good faith believed that breathing such foreign substances was dangerous to their health and they did not act unreasonably in seeking escape from the heat and dirt for it was customary for them (as testified by Morley) not

to work when the blower system was not operating. I find that the danger of heat disease above referred to with which the buffers were confronted constituted abnormally dangerous conditions because the abnormally high temperature in the inadequately ventilated buffing room exposed them to severe physiological stress which was conducive to heat stroke, heat shock, heat cramps, increased pulse and elevated body temperature. Such manifestations are true medical emergencies which will produce death unless appropriate first aid measures are given. While it is true that the record does not contain any evidence that such manifestations did occur as Dr. Frederick said could be expected within 1, 2 or 3 hours, it

989

should not be overlooked that the buffers worked only one and three-quarter hours and therefore may have escaped such manifestations by their decision to escape from such conditions. In arriving at these findings and conclusions, I can not accept Morley's testimony that there was no difference in the operation of the blower because of the reversed wires; that the fan operated as well in either direction; that the buffing room was the coolest room that afternoon in the plant; that the heat dropped 18-20 degrees between 3 and 5 p.m., although he did not know at any time what the temperature was. None of the foremen or superintendents testified with respect to the heat and dust. The fan was still running in reverse during the morning shift on September 1. The dust was so oppressive that employee Fox believed his health was endangered and resigned his job rather than work any longer under such conditions. While that happened on September 1, it corroborates the testimony relating to the dust in the air on the previous afternoon as the fan was operating in reverse on both days. Fox impressed me as a sincere and truthful witness. When the

Respondent ordered him to continue working or be fired, he met the situation by quitting then and there.

I accordingly find that the walkout of the afternoon buffers on August 31 was within the saving provision of Section 502 of the Act, in that it was the quitting of labor by employees in good faith because of abnormally dangerous conditions for work at their place of employment, and was not a strike within the meaning of Section 501. Since by the Act, it was not a strike, it follows and I find that they were engaged in concerted activity for their own mutual aid or protection which is protected activity under Section 7 of the Act. When the Respondent discharged them for the walkout, it discharged them for engaging in protected concerted activity, and thereby violated Section 8 (a) (3) and (1) of the Act.

The remaining defense that the walkout violated the well-known

990

company rule against absences without permission, in this situation is without merit, for a plant rule barring absence without permission may not be enforced to terminate an employee's status for engaging in lawful concerted activities, thereby abrogating the statutory right of employees to engage in concerted activity.[9]

The Strike and Events Thereafter

As a result of the discharge of the 17 buffers on August 31, which I have found to be an unfair labor practice, supra, and because of the alleged refusal of the Respondent to bargain on grievances subsequent to September 25, which I have found infra not to be in violation of Section 8 (a) (5) of the Act, the Union, on September 30, called a strike at

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[9]See, N. L. R. B. v. Marshall Car Wheel & Foundry Co., 218 F. 2d 409, 416 (C. A. 5), and cases cited.

approximately 10:30 a.m. The record shows that 86 employees participated in the strike. Picket lines were set up on September 30 and were discontinued some time in May 1954. The strike continued until on or about June 12, 1954, when the Union notified the Respondent by letter that the strike was terminated and requested reinstatement of all the strikers. I construe the letter from the Union to be an unconditional offer by the strikers to return to work. Dorothy Cezik testified that she was standing by the time clock at the time the strike was called and that Morley told her if she punched out on the day of the strike she was fired. Alonzo Garlick testified that Morley told the employees as they punched out when the strike was called that he hired and fired and anyone who walked out the door was all through; that the strike was not legal, and they were walking right out of a job. Some employees did not join the strike. Garlick testified further that at the same time he told Morley he was cutting all the pay rates but that Morley replied he was not, that he was only cutting some rates in the buffing room but was not cutting out on the line. Morley denied that he threatened to discharge Dorothy Cezik or anyone on September 30 for joining the strike. By letter dated October 1, the Respondent notified the strikers that the

plant was operating as usual and in the event they did not report for work on Monday, October 5, the Respondent would consider that they had quit their employment and they would be replaced by other or new employees. On October 5, the Respondent cancelled the group insurance of the strikers. Examination of the cancellation notices to the insurance company clearly indicates that the employment was terminated on October 5 notwithstanding the fact that the strikers actually stopped work on September 30.

On October 14, the parties met in meeting for the first time since the strike. The Respondent insisted on discussing contract negotiations only and refused to discuss the aforesaid grievances. The Respondent announced at that meeting that any contract if negotiated would apply only to the people in the plant who remain when the strike began and then only if the Union's certification remained unchallenged; and that there was no requirement on the part of the Respondent to bargain on the contract covering the employees who had failed to respond to the Respondent's letter of October 1, giving them a deadline of October 5 to return to work or be considered as having quit their employment. The Respondent denied that it discharged any employees on October 5 or at any other time for participation in the strike. Jess Underwood participated in the strike and was one of those to whom the Respondent sent the letter of October 1. Underwood testified that between 4 and 4:40 o'clock in the afternoon of November 4, he went into the plant and asked the office manager, Bernia, if there was any chance for him to go back to work, as there was no more picket line in front of the place; that he had a big family and needed to go back to work; and that Bernia told him to wait a minute whereupon Bernia left his presence and upon returning told Underwood there was nothing he could do for him. Bernia asked Underwood why he did not come in when he had a chance and Underwood replied he would not have much chance of going through a picket line by himself; that Bernia replied that Underwood could have gone through the picket line if he had wanted to. Underwood testified that he asked Bernia if he had talked to Morley and explained the situation, suggesting that maybe Morley might put

him back to work, but Bernia replied there was no use; that

they were not putting anybody back and the best thing Underwood could do was to look for another job. Underwood then, referring to his handicap of being deaf and having to use sign language when he is without his hearing aid, said it was pretty hard to go out and find a job, whereupon Bernia replied that Underwood should have thought of that before. Underwood testified that he then told him his kids, his family, were really hungry and he had to have a job but Bernia said he could not help that saying that Underwood could not have his cake and eat it, too. He testified further that Bernia then remarked something about Underwood eating Thanksgiving dinner "right over there in the tent." Underwood testified that the Union had a tent across the road in the field where coffee and doughnuts were available. Miford C. Bernia, the office manager, testified that when Underwood asked for his job he asked Underwood why he did not come back for his job by October 5 and that he replied that he could not get through the picket line. Bernia testified that he told Underwood there was nothing he could do for him, that Underwood would have to see Superintendent Hebel who had hired him originally. Bernia did not deny Underwood's testimony that Bernia told him there was no use asking Morley, that they were not putting anybody back and that the best thing Underwood could do was to look for another job; nor that, when Underwood referred to his difficulty in finding other work because he was deaf, he told him he should have thought of that before. Charles E. Morley, the president of the Respondent, testified that Bernia had nothing to do with hiring employees except in the office. On the testimony of Underwood which I credit I find that the Respondent discriminatorily refused to reinstate Jess Underwood when he applied for work on November 4 because he had participated in the strike, thereby violating Section 8 (a)

and pulse rate, or severe fatigue then they were not under sufficient thermal physiological stress to produce heat

979

disease and the temperature in all probability was substantially lower or the relative humidity was lower or both were the case. Dr. Frederick stated further that assuming the outside temperature was 96 degrees and the blowers were working adequately then the inside temperature would be fairly close to the outdoor temperature, possibly 3 or 4 degrees above the outdoor temperature. He testified further that if the inside temperature were reduced from 110 degrees to 90 degrees or less, humidity between 40-50 percent, then there would be no problem of severe heat disease.

Charles E. Morley testified that he is president of the Respondent and has had 20 years' experience in buffing and polishing operations. He admitted that in any buffing and polishing operations, the operator becomes dirty. He testified that he received no complaints concerning the operation of the blower fan during the morning of August 31; that the reason why the morning shift of buffers was sent home after 2 hours' work was so the blower system, which had not been cleaned on the previous Saturday because he was unable to get any men to come in to clean it, could be thoroughly cleaned. The reason he advanced for them working 2 hours on the morning shift was that it had been impossible to notify the employees in time not to come to work on the morning of August 31, and that, having reported, the Respondent pursuant to the contract was obligated to pay them a minimum of 2 hours pay. Morley testified that about one-half hour before the afternoon shift bgan on August 31 he was talking with Harsch about another matter when Harsch said he thought it was too hot a day to work and asked Morley if he would be willing to send the afternoon shift home after they had worked

the same time as the day shift had worked. Morley told Harsch that was not practical—that the buffing room had been down just to have it cleaned and to be in readiness for the afternoon shift; that it was unfortunate the Company had to lose production because the employees had refused to work on the Saturday previous to clean it. He testified that at the buffers on the afternoon shift

980

on August 31 were engaged in chrome buffing, which is an operation which removes the dull surface which has been deposited and allows the chrome below to come through so the entire appearance is shiny. He testified further that in chrome buffing only a very small amount of pressure is required, otherwise the chrome would be removed. Morley continued to testify that some time following the start of the afternoon shift on August 31 he learned for the first time that there was any question concerning the operation of the blower when Harsch came into the office portion of the building where Morley was and said there was some question whether the blowers were functioning as well as they normally functioned. He told Harsch they should be functioning better than during the morning for they had been cleaned and therefore would be working the same as they had always worked. He accompanied Harsch to the buffing room, looked at the machines, put his hand down near the revolving wheel to see if there was movement of air and felt some air move, and then blew cigar smoke to determine if there was any draft. Morley testified that it was his impression that the blowers took the cigar smoke, the machinery was running, and as far as he could determine the blower was operating in the same manner as it had always operated. After he had some water taken from the cyclo-wash, he made no further test to see if the blowers were working better and returned to his office. Later,

No. 118, review denied, March 2, 1955, —— F. 2d —— (C. A. 6). That case is distinguishable from the situation here. There, the strike was an economic strike; here it is an unfair labor practice strike. There, the Board found that the letter did not constitute a discharge of those strikers who failed to report by a given date; that notwithstanding the literal language of the letter the Respondent's subsequent conduct is inconsistent with the view that the strikers who failed to report by the specified time had in fact lost their employment status and rights on that date. The Board pointed out that after the critical date, 14 strikers applied for work and were given employment and were not discriminated against in any way because they exercised their right to continue to strike. Here, the Respondent discriminatorily refused to employ the 4 strikers who applied for work during the strike and after the deadline of October 5 set by the Respondent. I therefore find that in violation of Section 8 (a) (3) of the Act, the Respondent wrongfully discharged all strikers on October 5, and shall recommend that they be offered immediate reinstatement and awarded back pay from the date of their abandonment of the strike to the date of the offer of reinstatement. I further find that the unfair labor practice strike which

commenced on September 30 was continued and prolonged by the unfair labor practices of the Respondent, in threatening to discharge those who joined the strike on September 30, discharging the strikers on October 5, and refusing employment to the 4 strikers named above who separately applied for work during the strike.

The Alleged Refusal to Bargain

The amended complaint, as further amended at the hearing, alleged that on or about July 28, August 6, 22, 31,

September 14, 24, 25, October 14, 29, 1953, and at all times thereafter, the Respondent refused and continues to refuse to bargain in good faith with the Union, thereby engaging in unfair labor practices within the meaning of Section 8 (a) (5) of the Act. The answer denied that the Respondent has ever refused to bargain in good faith with the Union.

It was stipulated at the hearing that meetings were had between the Union and the Respondent on July 28, August 6, 12, September 8, 14, 18, 21, 24, 25, October 14 and 29, 1953.

At the meeting of July 28, the Union submitted a partial contract proposal for consideration and discussion was had concerning contract proposals. The Union brought up the following grievances to which the Respondent had given its answer earlier with which the Union was not satisfied: (1) Martha Ryan's discharge; (2) back pay for Irene Musial and Dorothy Cezik; (3) question concerning the reflection of the cost-of-living in piece-work rates; (4) computation of Saturday overtime in connection with piecework earnings. The Respondent pointed out to the Union that it had previously given its written answer to the aforesaid grievances and refused to change its position on those grievances.

The meeting on August 6 was devoted entirely to contract discussions. The meeting on August 12 was also devoted to contract discussions. It was agreed at that meeting to extend the expiration date of the current contract from September 5 to September 25, 1953. At that meeting, the Respondent proposed a time limitation on each step of the grievance procedure, which the Union refused.[10] The meeting on September 8 was not attended by John F. Langs, who was the attorney for the Respondent. The meeting

[10]Paragraph 8 of the contract contained no such time limitations.

was devoted entirely to the case of the afternoon buffers. The Union proposed the return to work of the discharged buffers on an interim basis with no prejudice to attach either to the Respondent's or the Union's position, and with the return to work of the buffers, the entire matter would be further negotiated or arbitrated. Charles E. Morley, the president of the Respondent, was advised by counsel to decline the Union's proposal and await the return of Langs. On September 14, the parties met and devoted all the time to the case of the discharged buffers. It was at this meeting that Langs objected to the attendance of Harry Harsch, the president of the Local, and one of the discharged buffers. The parties attempted to arrange for a speedy arbitration of the matter but unsuccessfully because they were unable to agree on an arbitrator. On September 18, the parties met again, and, upon the insistence of Langs, the grievance concerning the buffers was reduced to writing. The Respondent agreed to present its answer to the grievance on the following Monday, September 21. At the meeting on September 21, the Respondent gave its written reply to the grievance. No agreement was reached after lengthy discussions and the meeting adjourned with an agreement to meet again on September 24. The parties met again on September 24 and discussed grievances. Proposals and counter-proposals were made with respect to the grievance relating to the discharge of the buffers as well as other grievances, but no agreement was reached. At the September 25 meeting the Union again presented (1) the Martha Ryan grievance; (2) the grievance relating to Irene Musial and Dorothy Cezik; (3) the grievance relating to Helen Waite; (4) the grievance relating to the

discharge of the buffers; (6) the Ambrose Puente grievance; (7) the failure of the Respondent to pay the $.03

annual improvement factor effective September 5 under the terms of the currently expiring contract; and (8) the method of computing overtime on Saturdays so that piece work would be reflected in the overtime rate of pay. All the foregoing grievances except (6), (7) and (8) at an earlier date had been reduced to writing and written answers thereon unsatisfactory to the Union had been presented by the Respondent. The Respondent at this meeting stood on its answers previously given on the merits of the grievances, and refused to grant the Union the relief it requested with respect to each of the grievances. Neither the Respondent or the Union made any request for arbitration either orally or in writing at the September 25 meeting on the unsettled grievances. The testimony is conflicting whether the Respondent requested on September 25 that all oral grievances be reduced to writing. Charles E. Morley testified that the Respondent requested the Union to put oral grievances in writing if they were to be considered further. Bernard Young testified there was no such request made. It appears to be immaterial whether the Respondent requested the Union on September 25 to reduce oral grievances to writing. The record shows that oral grievances were sometimes considered and disposed of without being reduced to writing. Whether written or unwritten, the grievances were discussed on September 25, the Respondent's position was made known on each to the Union and the Union did not process them further through the grievance procedure. During the meeting on September 25 the Respondent requested that the contract which would expire that day again be extended so that the parties would have a collective bargaining agreement under which to work. The Union refused to grant further extension of the contract. Towards the close of the meeting Langs announced to the Union that all propositions that had been made by

the Respondent relating to any of the disputed grievances were withdrawn, and that when the contract expired at midnight that day the possibility of further discussion of those matters ended with the expiration

998

of the contract. The meeting adjourned without agreement on any of the 8 grievances. The Respondent announced that it was willing to bargain on terms for a new contract but unwilling to discuss further the grievances concerning which it had already stated its position. On Sunday, September 27, the Union contacted the Federal Conciliator in an attempt to arrange another meeting to bring the parties together on the unresolved grievances. On September 29, the Union declined to meet the Respondent on October 2, to discuss only contract terms and not unsettled grievances. The bargaining committee of the Union, pursuant to authority previously given by the membership, decided to call a strike beginning Wednesday, September 30. On that date, the strike occurred. The 86 employees named in Appendix B of the complaint as amended at the hearing joined the strike. The strike, which I have found above to be an unfair labor practice strike, continued to on or about June 12, 1954, at which time the Union notified the Respondent by letter that the strike was terminated and requested reinstatement of all the strikers. On October 14 the parties met and the Respondent took the position that it had no legal obligation to discuss further the grievances which remained unsettled upon the expiration of the contract. The Respondent insisted on discussing contract negotiations only to the exclusion of unsettled grievances. The Union proposed that the bargaining negotiations cover both the matter of contract provisions and unsettled grievances. The Respondent refused to proceed on any basis other than negotiations for a new contract, maintaining that the con-

tract having terminated on September 25, there was no responsibility for the Respondent to negotiate further on those unsettled grievances. The Union proposed discussion of 4 paragraphs of the contract to 1 unsettled grievance, but the Respondent refused to discuss grievances at all. The Respondent further took the position that any contract if negotiated would apply only to the employees in the plant who remained when the strike began and then only if the Union's certification remained unchallenged. The Respondent maintained there was no requirement to bargain on the contract covering the employees who had failed to respond to the Respondent's letter of October 1 giving them a deadline of October 5 to return to work or be considered "quits." The parties met again on October 29 and again the Respondent refused to discuss unsettled grievances, for the stated reason that they were

dead issues since the contract had expired under which those grievances had accumulated. The Union expressed a willingness to discuss any number of paragraphs of the contract just as long as grievances were discussed, but without avail. The Respondent refused to devote any part of the discussion to the unsettled grievances. By letter dated November 4 the Union proposed to the Respondent that the issue whether the negotiations for a new contract also include unresolved grievances be submitted to arbitration and the parties be bound by the decision. The Respondent did not reply. While the failure of the Respondent to rely may have been impolite, I do not consider it in any way evidence of bad faith bargaining since in the absence of an agreement to arbitrate, no one may be required to arbitrate. The agreement for arbitration in the grievance procedure did not extend to such a request as made herein.

The General Counsel contends that the Respondent was

obligated by statute to bargain with the Union on the unsettled grievances and matters in dispute as requested after the expiration of the contract and the failure of the Union to request available arbitration did not thereby constitute a waiver of its right to request further bargaining on those unresolved matters. He argues that there is no time limitation on any of the 5 steps in the grievance procedure as set forth in Section 8 of the contract; that step 5 is not mandatory unless either party requests arbitration in writing; and that with the expiration of the contract the Union was freed from its agreement not to strike but the Respondent was in no manner freed from its continuing duty to bargain in good faith with the Union on all matters concerning wages, hours, rates of pay, grievances, labor disputes or conditions of work. The General Counsel argues further that the intervening strike on September 30 made more imperative the Respondent's duty to meet and bargain with the Union on request, particularly with respect to those matters in dispute which had precipated the strike. The General Counsel further argues that even if it be conceded arguendo that an impasse concerning the matters in dispute had been reached

before the September 30 strike, the strike "effected a sufficient change of circumstances to break the impasse. This is even where, as here, the union in requesting further bargaining on the unsettled grievances did not, affirmatively indicate, when it sought to reopen negotiations, that it would recede from any of its previous demands."[11]

The Respondent contends, in substance, that it satisfied its statutory obligation to bargain in good faith by meeting with the Union and discussing grievances pursuant to the grievance procedure contained in the contract; that it made

[11]Citing West Fork Cut Glass Company, 90 NLRB 944; The Jacobs Manufacturing Company, 94 NLRB 1214.

its position known to the Union on all the grievances presented to it, and while it did not satisfy the Union's demands, the Union nevertheless could have invoked arbitration as the final step if it wished to process the grievances further. The Union has also filed a separate brief which has been considered.

With respect to the refusal of the Respondent to discuss further the grievances which it had considered and notified the Union of its position up to and including September 25, I find there is merit in the Respondent's position. In Textron Puerto Rico, 107 NLRB No. 142, the company had dealt with the union on the merits of a grievance during the first 2 stages of the grievance procedure. The third and final step of the procedure was arbitration. The union at the last conference requested arbitration which the company refused. The Board reversed the Trial Examiner who had found the company had refused to bargain in good faith and dismissed the complaint, holding there was no evidence to indicate that the company did not in good faith deal with the merits of the grievance during the first 2 stages, and that the refusal of the company to submit the dispute to arbitration did not in and of itself constitute a violation of Section 8 (a) (5) of the Act. In McDonnel Aircraft Corporation, 109 NLRB No. 144, the grievance procedure under the contract was followed through the third step which called for a

meeting between the union and the company representatives; following which there were several discussions in which the respective positions of the parties were reasserted. The union refused to go to the fourth step in the grievance procedure which was arbitration but instead filed a charge of refusal to bargain. The Board in dismissing the complaint stated:

Intermediate Report and Recommended Order

> **Under Section 8 (a) (5) of the Act, the Board is not concerned with the inherent merits of any labor dispute; its sole function is to establish the basic ground rules for collective bargaining and to see that all disputes affecting wages, hours, and conditions of employment between employers and the statutory representative of their employees are fully subjected to the collective bargaining process.**
>
> **We accordingly hold that the Respondent satisfied its obligation to bargain under the Act by treating the Union's complaint . . . as a grievance under the applicable contract clause, by processing the matter through the first 3 steps of the established grievance machinery and by evincing a willingness to permit the matter to go to the final (arbitration) step of the grievance procedure.**

In Timken Roller Bearing Company, 161 F. 2d 949, at 954 the Court expressly held:

> Adjustment of grievances by conferences between grievance representatives of management and grievance committees of the union and leading, in the event of failure, to arbitration, is itself a bargaining process, and we know of no mandate of the law that bargaining must be undertaken and pursued in a particularized manner, excluding every other.

1002

In Crown Zellerback Corp., 96 NLRB 753, the company without consulting the union established a change in the contract piece-work rate to compensate for new and improved equipment. The union made no attempt to utilize the grievance procedure provided for in the contract, but instead filed the charge upon which the complaint issued, alleging a refusal to bargain in violation of Section 8 (a)

(5). There, as here,[12] the record disclosed that in the past, several disputes had been amicably settled under the grievance procedure. After discussing its reluctance to issue a remedial collective bargaining order as a result of the Respondent's isolated unilateral action, the Board dismissed the complaint, stating (754):

> Indeed, the Board has frequently stated that the stability of labor relations which the statute seeks to accomplish through the encouragement of the collective bargaining process ultimately depends upon the channelization of the collective bargaining agreement. By encouraging the utilibation of such procedure in this case, we believe that statutory policy will best be effectuated. Affirmative Board action would on the other hand put the Board in the position of policing collective bargaining agreements, a role we are unwilling to assume. (Cases cited.)

I find nothing in the record to indicate that throughout the meetings and discussions concerning the various grievances the Respondent did not discuss, consider and determine them in good faith. That the grievance procedure so established by the contract was workable is established by the fact that it was used for processing over 50 grievances during the term of the contract, at least 1 of which went to arbitration. The General Counsel stated on the record and in his brief that, with the exception of the grievance referring to the discharged buffers, he is not seeking a

determination from the Board as to whether or not the subject matter of the unsettled grievances constitute unfair

[12]Over 50 written grievances have been considered between the Respondent and the union during the term of the collective bargaining agreement, according to the uncontradicted testimony of Charles E. Morley

(3) and (1) of the Act.

Daniel Collins, employed as janitor, testified that he participated in the strike and around the first of the year 1954 he asked Superintendent Hebel "how was chances to get a job back"; that Hebel replied he could not rehire him until the strike was over. Collins admitted on cross-examination that he may have said, but does not recall, that he stated to Hebel that he

993

hoped the strike would be over soon, because he wanted to return and that he was getting lonesome for the place. Collins admitted that during at least part of the conversation with Hebel, Morley was present. Morley testified that he was present during the conversation between Collins and Hebel and that Collins asked Hebel when he thought the strike would be over and he could return to work; that Hebel said he did not know; and Collins said he was getting lonesome and would like to come back; and that Hebel asked if Collins would come back as long as the strikers were there but Collins replied he could not do that but he sure was getting lonesome for the place. Hebel did not testify. I credit Collins' testimony and find that he applied for work and that Hebel refused to hire him until the strike was over and that the Respondent thereby discriminatorily refused to rehire him because he had participated in the strike, thereby violating Section 8 (a) (3) and (1) of the Act. Clarence Bantien testified that he participated in the strike, but that about January 9, 1954, he telephoned to the afternoon superintendent, Hicks, and asked if he could come back to work. Bantien testified that Hicks told him Morley could not talk with Bantien but that Hicks was to tell Bantien that Morley will not take anybody back "until this thing is settled." Hicks did not testify with respect to Bantien's testimony, although he was called by the Re-

spondent and testified on other matters. I credit Bantier's testimony and find that the Respondent discriminatorily refused to reinstate him when he applied for work on January 9, 1954, thereby violating Section 8 (a) (3) and (1) of the Act. Betty Jean Elsholz testified that she participated in the strike and that about January 14, 1954, she telephoned to Superintendent Hebel and asked him if there was any chance of getting back her job; and that Hebel replied there was if she wanted to come in and make out an application. When she inquired if that meant loss of seniority "or anything," he answered in the affirmative stating "you have to come in as a new girl, because right now we can't take any of the old members back." At her unemployment insurance hearing on August 3, 1954, she testified that she

994

would not come back to work and cross the picket line. Hebel did not testify. I credit Elsholz' testimony and find that the Respondent discriminatorily refused to rehire her on January 14, 1954, because she participated in the strike unless she made out an application as a new employee, thereby losing whatever seniority or other benefits she may have been entitled to; thereby violating Section 8 (a) (3) and (1) of the Act.

Upon the credited testimony of Dorothy Cezik and Alonzo Garlick I find that Charles E. Morley threatened them and other employees with discharge on September 30 if they joined the strike and that the Respondent thereby interfered with, restrained and coerced them in the exercise of their rights guaranteed by Section 7 of the Act, thereby violating Section 8 (a) (1) of the Act.

The Respondent contends that the October 1 letter sent to the strikers did not terminate their employment and cites in support Kerrigan Iron Works, Inc., 108 NLRB

labor practices. The Respondent at all times has been willing to negotiate the terms of a new contract. After September 25 the Respondent met with the Union and was willing to negotiate on the terms for a new contract. The Union refused to negotiate with the Respondent for a new contract unless the outstanding grievances were also included in the agenda. Upon the facts of this case I am of the opinion that the Respondent could lawfully take the position that it would not further discuss the grievances. I do not agree that because the Union failed to file requests for arbitration on or before September 25 all grievances were disposed of and did not thereafter exist as the Respondent's letter to its employees published in the Richmond Review set forth. Apparently neither does counsel for the Respondent at this time, for in his brief he states that the termination of the contract did not end the contractual responsibility to adjust disputes arising during the existence of the contract under the grievance and arbitration procedure of the contract and in support thereof cites two cases from the New York and California State courts. As I view the situation on and after September 25, the Respondent, having satisfied the grievance procedure on the pending grievances up to the arbitration stage, and having suggested arbitration be invoked by the Union as the final step under the grievance procedure if it still was not satisfied with the Company's answers to the grievances, could properly take the position that henceforth it would not discuss those grievances but would devote all future negotiation time to the negotiation of a new contract. While it is true that the answers given on the grievances by the Respondent did not satisfy the Union, the Respondent had satisfied its statutory obligation to bargain on grievances by acting in good faith within the framework of contractual grievance procedure established by the parties. Accordingly, on the basis of the entire rec-

ord and all the evidence, the amended complaint insofar as it alleged that the Respondent has violated Section 8 (a) (5) of the Act should be dismissed.

1004

IV. The effect of the unfair labor practices upon commerce

The activities of the Respondent, set forth in Section III, above, occurring in connection with the operations of the Respondent described in Section I, above, have a close, intimate, and substantial relation to trade, traffic, and commerce among the several States, and tend to lead to labor disputes burdening and obstructing commerce and the free flow of commerce.

V. The remedy

Having found that the Respondent has engaged in unfair labor practices in violation of Section 8 (a) (1) and (3) of the Act, I shall recommend that it be ordered to cease and desist therefrom and to take certain affirmative action designed to effectuate the policies of the Act.

Having found that the Respondent discriminated in regard to the hire and tenure of employment of the 17 employees listed on Schedule A, hereto attached, by discharging them on August 31, 1953, and thereafter refusing to reinstate them; and having further found that the Respondent discriminated with regard to the hire and tenure of employment of the 86 employees listed on Schedule B, hereto attached, by discharging them on October 5, 1953, following their participation in a strike caused and prolonged by the Respondent's unfair labor practices, I shall recommend that the Respondent be ordered to offer to the employees listed on Schedule A and Schedule B full reinstatement to their former or substantially equivalent positions, without prejudice to their seniority or other rights

and privileges. If there are not sufficient positions available in appropriate job classifications, the Respondent shall make room for the employees ordered reinstated by dismissing to the extent necessary employees occupying such classifications who were hired after August 31, 1953. If after such dismissal there are still not sufficient positions available, all existing positions in the appropriate

1005

job classification shall be distributed among the employees ordered reinstated and other employees who were hired on or before August 31, 1953, without discrimination against any of them because of his union affiliation, or strike or concerted activities, following such system of seniority or other nondiscriminatory practices as would normally have been applied by the Respondent to determine job retention rights upon a reduction of force. All employees remaining after such distribution including those ordered reinstated, for whom no employment is immediately available, shall be placed upon a preferential list and offered reemployment as work becomes available in a suitable classification, and before other persons are hired for such work, in the order required by the Respondent's normal seniority system or other nondiscriminatory practices.

I shall further recommend that the Respondent be ordered to make whole each of the employees listed in Schedule A and Schedule B for any loss of pay they may have suffered as a result of the discrimination against them. In the case of the employees listed on Schedule A, the back pay period shall run from August 31, 1953. In the case of the employees listed on Schedule B, the back pay period shall run from June 14, 1954, with the exceptions that in the case of Jesse Underwood the back pay period shall run from November 4, 1953; in the case of Clarence Bantien the back pay period shall run from January 9, 1954; in the case

of Daniel Collins the back pay period shall run from January 2, 1954; and in the case of Betty Jean Elsholz the back pay period shall run from January 18, 1954. In the case of each employee ordered reinstated, back pay shall run to the date of the Respondent's compliance as to him with the reinstatement provisions hereof. Consistent with the policy of the Board enunciated in F. W. Woolworth Company, 90 NLRB 289, losses of pay shall be computed on the basis of each separate calendar quarter or portion thereof during the appropirate back pay period. The quarters shall begin with the first day of January, April, July, and October. Loss of pay shall be determined by deducting from a sum equal to that which the employees

normally would have earned for each quarter or portion thereof, their net earnings, if any, in their employment during that quarter.[13] Earnings in any particular quarter shall have no effect upon the back pay liability for any other quarter. I shall also recommend that the Respondent be ordered to make available to the Board upon request payroll and other records to facilitate the checking of the amount of back pay due.

I shall further recommend that the Board reserve the right to modify the back pay and reinstatement provisions, if made necessary by a change of circumstances since the hearing or in the future, and to make such supplements thereto as may hereafter become necessary in order to define or clarify their application to a specific set of circumstances not now apparent.

Upon the basis of the foregoing findings of fact and upon the entire record in the case, I make the following:

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[13]Crossett Lumber Company, 8 NLRB 440; Republic Steel Corporation v. N. L. R. B., 311 U. S. 7.

Conclusions of Law

1. The Respondent is engaged in commerce within the meaning of Section 2 (6) and (7) of the Act.

2. International Union, United Automobile, Aircraft and Agricultural Implement Workers of America, UAW-CIO, and Local 1125, International Union, United Automobile, Aircraft and Agricultural Implement Workers of America, UAW-CIO, are labor organizations within the meaning of the Act.

3. All production and maintenance employees of the Respondent at its plant in Richmond, Michigan, excluding office and clerical employees, chemists, watchmen, and supervisors constitute a unit appropriate for the purposes of collective bargaining within the meaning of the Act.

1007

4. International Union, United Automobile, Aircraft and Agricultural Implement Workers of America, UAW-CIO, and Local 1125, International Union, United Automobile, Aircraft and Agricultural Implement Workers of America, UAW-CIO, were on April 20, 1950, and at all times thereafter have been the exclusive representative of all the employees in the above appropriate unit, within the meaning of the Act.

5. By interfering with, restraining, and coercing its employees in the exercise of rights guaranteed in Section 7 of the Act, the Respondent has engaged in and is engaging in unfair labor practices within the meaning of Section 8 (a) (1) of the Act.

6. By discriminating in regard to the hire and tenure of employment of the employees listed in Schedule A and Schedule B, thereby discouraging membership in the Union, the Respondent has engaged and is engaging in unfair labor practices within the meaning of Section 8 (a) (3) of the Act.

7. The aforesaid unfair labor practices are unfair labor practices affecting commerce within the meaning of Section 2 (6) and (7) of the Act.

8. The strike which began on September 30, 1953, was caused and thereafter prolonged, by the aforesaid unfair labor practices.

9. The Respondent has not engaged in any unfair labor practices within the meaning of Section 8 (a) (5) of the Act.

RECOMMENDATIONS

Upon the basis of the foregoing findings of fact and conclusions of law it is hereby recommended that Knight Morley Corporation, its agents,

successors and assigns, shall:

1. Cease and desist from:

(a) Discouraging membership in the aforesaid Union or any other labor organization of its employees by discriminatorily discharging or refusing to reinstate or reemploy employees for the reason that they engaged in strike or concerted activities protected by the Act, or by discriminating in any other manner in regard to their hire and tenure of employment, or any term and condition of employment;

(b) In any other manner interfering with, restraining, or coercing its employees in the exercise of their right to self-organization to form, join, or assist the aforesaid Union, or any other labor organization, to bargain collectively through representatives of their own choosing and to engage in concerted activities for the purpose of collective bargaining or other mutual aid or protection, or to refrain from any or all of such activities except to the extent that such right may be affected by an agreement requiring mem-

bership in a labor organization as a condition of employment as authorized in Section 8 (a) (3) of the Act.

2. Take the following affirmative action which I find will effectuate the policies of the Act:

(a) Offer the employees named in Schedule A and Schedule B full reinstatement to their former or substantially equivalent positions, without prejudice to their seniority or other rights and privileges, as provided in the section above, "The remedy";

(b) Make whole the employees named in Schedule A and Schedule B in the manner set forth in the section above, entitled "The remedy," for any loss of pay they may have suffered by reason of the Respondent's discrimination against them;

1009

(c) Upon request, make available to the Board and its agents, for examination and copying, all payroll records, social security payment records, time cards, personnel records, and all reports and other records necessary to analyze the amount of back pay due;

(d) Post at its Richmond, Michigan, plant copies of the notice attached hereto, marked "Appendix." Copies of said notice, to be furnished by the Regional Director of the Seventh Region, shall, after being duly signed by the Respondent, be posted by it immediately upon receipt thereof and be maintained by it for a period of at least sixty (60) consecutive days thereafter in conspicuous places, including all places where notices to employees are customarily posted. Reasonable steps shall be taken by the Respondent to insure that said notices are not altered, defaced, or covered by any other material;

(e) Notify the Regional Director for the Seventh Region, in writing within twenty (20) days from the date of the receipt of this Intermediate Report, what steps the

Respondent has taken to comply with these recommendations.

I further recommend that the Board reserve the right to modify the back pay and reinstatement provisions, if made necessary by a change of circumstances since the hearing or in the future, and to make such supplements thereto as may hereafter become necessary in order to define or clarify their application to a specific set of circumstances not now apparent.

I further recommend that, unless the Respondent within twenty (20) days from the date of the receipt of this Intermediate Report, notifies the said Regional Director in writing that it will comply with the foregoing recommendations, the Board issue its order requiring the Respondent to take

1010

the action aforesaid.

I further recommend that the complaint so far as it alleges that the Respondent violated Section 8 (a) (5) of the Act be dismissed.

Dated at Washington, D. C., this 29 day of April 1955.

(s) W. Gerard Ryan,
Trial Examiner.

1011

SCHEDULE A

L. Basnow
Norwood Beier
L. Burns
W. Eggert
Edward Gierke
Harry Harsch
W. Jackowski
D. McCue
E. Meyers
Joe Muniz
Lester Porrett
H. Schultz
Russell Simons
Tommassewski
Phillip M. Whittaker
John N. Willing
J. H. Willings

SCHEDULE B

Helen Anderson
Robert Arnold
Dolores Balhorn
Clarence Bantien
Fred Barber
Violet Barber
Walter Bashford
Glenn Basnow
Edmund Baumgarten
William Baumgarten
Frank O. Behmler
Helen Bobcean
Gabriella Bruder
Wanna Burns
Anna Carpenter
Dorothy Cezik
Ethel Chaltron
Harold Chaltron
Daniel Collins
Dolores Collins
Mary Collins
John Curzydlo
Louise Dion
Joseph Doggendorf
Glen Dove
Ralph Dove
Betty Elsholz
Veronica Essenberg
Lawrence Evans
Francis Fasbender
Gladys Fenton
Wayne Fistler
Alonzo Garlick
Lottie Garlick
Herman Gunst
Lawrence Harrison
Clara Henke
Marvin Hulett
Lorraine Hunger
Jacquelin Jeffery
Alfred Kammer
Clarence Kammer
Walter Kaufman
George Kelly
Esther Kesner
Stella Kraatz
Daisy Lynch
Tillie Lysczyk
Anna Machowski
Sara Maher
Daisy Martin
Leona Martindale
Virginia McDonald
Emma Meyers
Colleen Middleton
Charles Miller
Irene Musial
William Newton
Eva Oswald
Lily Paling
Thomas Pietrikowski
Helen Przytakowski
Roman Redlin
Eleanor Renner
Leona Ross
Blanche Russell
Andra Scribner
Robert Seifert
Carlton Semos
Stella Setter
Harriett Sinda
John Smith
Richard Somes
Gladys Storey

George Stragea	Gladys Verscheure
Joseph Sulak	Chester Warren
Wallace Teltow	Donna Waterloo
William Teska	Robert J. Whitcombe
Jess Underwood	Charles R. Wiswell
Wallace Underwood	Thaddeus Zembol

1013

APPENDIX

NOTICE TO ALL EMPLOYEES

Pursuant To

The Recommendations of a Trial Examiner

of the National Labor Relations Board, and in order to effectuate the policies of the Labor Management Relations Act, we hereby notify our employees that:

We Will Not discourage membership in International Union, United Automobile, Aircraft and Agricultural Implement Workers of America, UAW-CIO, and Local 1125, International Union, United Automobile, Aircraft and Agricultural Implement Workers of America, UAW-CIO, or in any other labor organization of our employees, by discriminating in regard to their hire or tenure of employment, or any terms or conditions of employment.

We Will Not discharge or discriminatorily refuse to reinstate or reemploy any of our employees for engaging in strike or concerted activities protected by the Act.

We Will Not in any other manner interfere with, restrain, or coerce our employees in the exercise of their right to self-organization, to form labor organizations, to join or assist the aforesaid labor organizations, or any other labor organization, to bargain collectively

through representatives of their own choosing, and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection, or to refrain from any or all of such activities, except to the extent that such right might be affected by an agreement requiring membership in a labor organization as a condition of employment, as authorized in Section 8 (a) (3) of the Act.

We Will offer to the employees named below immediate and full reinstatement to their former or substantially equivalent positions, without prejudice to any seniority or other rights and privileges previously enjoyed, and make them whole for any loss of pay suffered as a result of the discrimination against them:

Helen Anderson
Robert Arnold
Dolores Balhorn
Clarence Bantien
Fred Barber
Violet Barber
Walter Bashford
Glenn Basnow
L. Basnow
Edmund Baumgarten
William Baumgarten
Frank O. Behmler
Norwood Beier
Helen Bobcean
Gabriella Bruder
Wanna Burns
L. Burns
Anna Carpenter
Dorothy Cezik
Ethel Chaltron
Harold Chaltron
Daniel Collins
Dolores Collins
Mary Collins
John Curzydlo
Louise Dion
Joseph Doggendorf
Glen Dove
Ralph Dove
W. Eggert
Betty Elsholz
Veronica Essenberg
Lawrence Evans
Francis Fasbender
Gladys Fenton
Wayne Fistler

1014

Alonzo Garlick
Lottie Garlick
Edward Gierke
Herman Gunst
Lawrence Harrison
Harry Harsch
Clara Henke
Marvin Hulett
Lorraine Hunger
W. Jackowski
Jacqueline Jeffery
Alfred Kammer
Clarence Kammer
Walter Kaufman
George Kelly
Esther Kesner
Stella Kraatz
Daisy Lynch
Tillie Lysczyk
D. McCue
Anna Machowski
Sara Maher
Daisy Martin
Leona Martindale
Virginia McDonald
Emma Meyers
E. Meyers
Colleen Middleton
Charles Miller
Irene Musial
Joe Muniz
William Newton
Eva Oswald
Lily Paling
Thomas Pietrikowski
Lester Porrett
Helen Przytakowski
Roman Redlin
Eleanor Renner
Leona Ross
Blanche Russell
Andra Scribner
H. Schultz
Robert Seifert
Carlton Semos
Stella Setter
Harriett Sinda
Russell Simons
John Smith
Richard Somes
Gladys Storey
George Stragea
Joseph Sulak
Wallace Teltow
William Teska
Tommassewski
Jess Underwood
Wallace Underwood
Gladys Verscheure
Chester Warren
Donna Waterloo
Robert J. Whitcombe
Phillip M. Whittaker
Charles R. Wiswell
John N. Willing
J. H. Willings
Thaddeus Zembol

Intermediate Report and Recommended Order

All our employees are free to become or remain members of the above named Union or any other labor organization. We will not discriminate in regard to hire or tenure of employment or any term or condition of employment against any employee because of membership in or activity on behalf of any such labor organization.

Knight Morley Corporation
(Employer)

Dated..... By.....
(Representative) (Title)

This notice must remain posted for 60 days from the date hereof, and must not be altered, defaced, or covered by any other material.

1035

DECISION AND ORDER.

Case No. 7-CA-995

On April 29, 1955, Trial Examiner W. Gerard Ryan issued his Intermediate Report in the above-entitled proceeding, finding that the Respondent had engaged in and was engaging in certain unfair labor practices and recommending that it cease and desist therefrom and take certain affirmative action, as set forth in the copy of the Intermediate Report attached hereto. The Trial Examiner also found that the Respondent had not engaged in certain other alleged unfair labor practices. Thereafter, the Respondent, the General Counsel, and the Union, filed exceptions to the Intermediate Report and supporting briefs.

The Board has reviewed the rulings made by the Trial Examiner at the hearing and finds that no prejudical error was committed. The rulings are hereby affirmed. The Board has considered the Intermediate Report, the exceptions and briefs, and the entire record in this case,[2] and hereby adopts the findings, conclusions, and recommendations of the Trial Examiner, to the extent consistent herewith.

1. The walkout and discharge of the buffers.

Following the Union's certification by the Board on April 20, 1950, the Union and Respondent on October 20, 1950, entered into a contract. By its

1036

terms the contract was to expire on September 5, 1953, but on August 24, 1953, it was extended to September 25, 1953,

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[1]The AFL and CIO having merged since the Trial Examiner issued his Intermediate Report, we are amending the designation of the Union accordingly.

[2]The Respondent's request for oral argument is denied, because in our opinion the record, and the exceptions and briefs, adequately present the issues and the positions of the parties.

at which time the contract terminated. There has since been no further contract between the parties. This contract contains a 5-step grievance procedure and a no-strike clause.

The Respondent operates a blower system in its buffing room for ventilation and cooling purposes, and also to remove particles of dirt, dust, and lint from the buffing operations. Such a blower system is required under the labor laws of the State of Michigan.[3] On August 21, 1953, the blower broke down, and the buffers remained idle for 1½ hours until it was repaired. On August 28, fire destroyed the switch box controlling the blower, and because it could not be repaired the buffers were sent home. On Saturday, August 29, a nonworking day, a new switch box was installed, but in the process the wires were reversed on the blower motor with the result that the blower then ran in the opposite direction from which it normally runs. When the buffers on the day shift reported for work at 7 A.M. on Monday, August 31, it was found that the blower was not carrying away the dirt from the buffing operations, and at 9 A.M. the buffers on the day shift were sent home, except for three men who stayed and cleaned the blower because it had not been cleaned at its regular time on the preceding Saturday. However, when the buffers on the afternoon shift started working at 3:30 P.M., they found, according to their credited testimony, that the blower was still not operating properly with the result that: (1) the temperature in the buffing room at least for part of the time between 3:30 and 5:15 P.M. was 110 degrees according to a thermometer in the buffing room;[4] and (2) dust, lint, dirt and abrasives were flying all over the room, into the faces, noses,

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[3]Act No. 285 of the Public Acts of 1909, as amended.

[4]Credited testimony also shows that the outside temperature was 98 degrees.

and throats of the men, covering their arms and bodies, and making it difficult for them to breathe. The buffers complained to management through their Union steward and Local president, but Respondent president Morley, after a "cigar smoke" test of the blower on the results of which there was contradictory

1037

testimony,[5] concluded there was nothing wrong with the blower, and notified the buffers that they would have to work and would be discharged if they left work for violation of the no-strike clause in the contract and the company rule against absences without permission. Because, according to their uncontradicted and credited testimony, the buffers believed that their health would be endangered by the heat and the dust, the entire shift of 17 buffers quit work and walked out of the plant at approximately 5:15 P.M. According to the credited testimony of several morning shift buffers, the blower did not work properly the next morning (September 1) either; and one morning shift buffer quit rather than work in the dust for fear of contracting "t.b." Toward the end of the morning shift Morley had the wires on the blower motor restored to their usual position and thereafter the blower operated normally, but he refused to permit the afternoon buffers to work when they reported at their regular starting time on September 1.

The General Counsel introduced "expert" testimony by Doctor of Science Frederick, who qualified as an expert witness in industrial health. With respect to the "dust" situation, Dr. Frederick testified that the effect of the

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[5] Morley testified that the blower carried away the smoke, but several other witnesses disagreed. The Trial Examiner did not resolve this conflict in testimony, and we find it unnecessary to do so for the reason that even if Morley's testimony in this connection were to be credited, the "cigar smoke" test would not appear to be determinative of whether the blower was cooling the room and removing the dust as it should, as shown by the credited "expert" testimony discussed below.

blower fan running in reverse would be a loss of efficiency in the blower of 70 to 80 percent, and with the fan thus operating at only 20 to 30 percent of normal capacity its effectiveness in removing fine particles from the air would be reduced to nearly zero; that exposure to such particulate matter for periods of short duration might produce irritations of the nose and throat, sore throat, coughing and similar complaints (as did happen), and that prolonged exposure over years will produce disease of the lungs which will be seriously detrimental to health. With respect to the "heat" situation, Dr. Frederick testified that assuming an inside temperature of 110 degrees in the buffing room, the blower fan running backward with a

1038

70-80 percent loss in efficiency, a hot, muggy, humid day outdoors with temperature in the 90's and humidity at 40-50 percent, windows open along the wall, a 24" blade fan directed in one position creating some movement (all as credibly testified to), then an ordinary group of workers would be subjected to severe physiological stress from the heat, and it would be expected that at least some would experience acute physiological effects of "heat disease", such as heat prostration, heat shock, and heat cramps, and that within a relatively short period (1, 2 or 3 hours) they might reach the end of their capacity to work, and might die if not given immediate medical care.

The broad issue posed by these facts is whether the walkout by the buffers was protected concerted activity so as to render their discharge unlawful, or whether it was a strike in violation of the no-strike clause of the contract and therefore unprotected activity so as to render their discharge lawful.

Section 501 of the Act defines a "strike" under the Act. Section 502 of the Act, which is captioned "Saving Provi-

sion", provides: ". . . . nor shall the quitting of labor by an employee or employees in good faith because of abnormally dangerous conditions for work at the place of employment of such employee or employees be deemed a strike under this Act." The General Counsel contends in substance that the walkout was a "quitting of labor" within the meaning of Section 502, and was therefore not a "strike" in violation of the no-strike clause in the contract; and consequently that the walkout was protected concerted activity, and the discharge of the buffers was unlawful. The Respondent contends in substance that the working conditions of the buffers were not "abnormally dangerous" and such was not the "good faith" reason for the walkout, and in any event that Section 502 did not protect the walkout; and the walkout was therefore unprotected because it was a violation of the no-strike clause of the contract, and consequently the discharge of the buffers was lawful.

Upon the basis of the credited testimony of the buffers that the inside temperature in the buffing room was 110 degrees, the outside temperature in the

1039

90's with humidity 40-50 percent,[6] and the blower fan running in reverse; and upon the basis of the credited expert testimony by Dr. Frederick that the latter caused a loss of efficiency in the blower system of 75 percent, and that all of these conditions constituted conditions of danger to the buffers of "heat disease" so that within 1, 2 or 3 hours they might reach the end of their capacity to work, and might actually die if not given immediate medical care; and upon

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[6]Respondent introduced weather reports for August 31 at Detroit City Airport and Willow Run Airport, both of which are about 30 miles from the plant in different directions. Because of these distances, and marked variants in the weather between the two Airports, we, like the Trial Examiner, find it impossible to rely on these reports in determining either the outside or the inside temperature in the buffing room on that date, but rely instead on the credited tesemonial evidence.

the basis of the credited testimony of the buffers and Dr. Frederick as to the physical ailments which the "dust" would and did cause; we find that this danger of "heat disease" and the physical ailments which the "dust" would and did cause constituted "abnormally dangerous conditions for work" within the meaning of Section 502. While there is no evidence that any "heat disease" actually occurred, we note, as the Trial Examiner did, that the buffers worked only 1¾ hours and therefore may have escaped such illness by quitting work when they did. We also note, as the Trial Examiner did, that one of the morning buffers went so far as to quit the next morning because of the dust, which lends corroboration to the bad dust conditions when the 17 buffers walked out the previous afternoon.

In support of its contention that working conditions were not "abnormally dangerous", the Respondent relies largely on an attack on the Trial Examiner's credibility finding with respect to the "heat" and the "dust", i. e., that the Trial Examiner should not have credited the buffers' testimony, but should have credited Respondent president Morley's testimony which was in substance that the blower was operating normally with no excessive amount of heat and dust. In considering this credibility issue, it should be noted first that eight buffers testified to the abnormal heat and dust on the afternoon of August 31 and six buffers testified to such abnormal conditions on the following morning; their

1040

testimony was convincing and mutually corroborative, while Morley's testimony to the contrary was uncorroborated.[7] The Respondent contends that the "best proof" that the temperature in the buffing room was not 110 degrees is Dr. Frederick's testimony that at that temperature

[7]See Dixie Culvert Manufacturing Company, 87 NLRB 554, 555.

and the other conditions testified to by the buffers the men could only work 1 to 3 hours without suffering from some form of "heat disease", and there is no evidence that any buffer suffered any heat disease even thought the buffers worked 1¾ hours. For the reasons already stated, we find no merit in this contention. The Respondent also contends that the fact that with no change in the blower the morning shift worked a full shift the next morning with no complaints, except for the one employee who quit, indicates that the temperature was not 110 the afternoon before. However, in the absence of evidence as to outside and inside temperature the next morning, this does not necessarily indicate that it was not 110 inside the prior afternoon—it may well have been cooler both outside and inside the next morning. Moreover, a morning buffer testified that the morning buffers worked the next morning only because of fear that they too would be fired. Similarly, it would appear that the additional fact pointed to by Respondent, that employees in other departments worked all day on August 31 with only one complaint about the heat, would have little bearing on what the heat conditions were in the buffing room if the blower was not working properly there. Morley also testified that after the walkout two or three employees were transferred from other departments to the buffing room, where they finished out the shift without any complaints to him. However, Morley did not say how long after the walkout this transfer took place; and these employees were not called to testify as to what the conditions were then in the buffing room, or whether they did make any complaints or suffer any illness. With respect to the "dust", Respondent points to the absence of evidence that the buffers told management they considered the dust to be "injurious to their health," and the fact that they also returned the next day for work, as disproving abnormal dust con-

ditions. However, the buffers did complain about the dust to management in general terms, and

1041

apparently did consider the situation serious enough to walk off the job; and reasonably could have come back the next day with the expectation that something had been done about the blower to improve conditions, which in fact had been done. Finally, the Respondent contends that the real reason for the work stoppage was to enforce the demand made by the Local president before the shift commenced work, which was turned down by Morley, that the afternoon buffers be permitted to go home after working 2 hours in order to equalize their hours with those of the morning shift. However, there is no other evidence to support this contention, and all of the buffer witnesses testified that the reason was the heat and the dust, a reason which arose later. In view of the foregoing, and in view of the Board's policy "not to overrule a Trial Examiner's resolutions as to credibility except where the clear preponderance of all the relevant evidence convinces us that the Trial Examiner's resolution was incorrect,"[8] the Board affirms the Trial Examiner's findings based on credibility with respect to the abnormal heat and dust conditions in the buffing room at the time of the walkout; affirms the Trial Examiner's finding, based on Dr. Frederick's credited expert testimony, that such conditions were "abnormally dangerous"; and affirms the Trial Examiner's further finding, based on the credited testimony of the buffers, that the "good faith" reason for the walkout was the abnormal heat and dust.

We also agree with the Trial Examiner's finding that since the walkout was a "quitting of labor by employees in

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[8]Standard Dry Wall Products, Inc., 91 NLRB 544, enf'd. 188 F. 2d 362 (C. A. 3).

good faith because of abnormally dangerous conditions for work", and therefore was not a "strike" under Section 502 of the Act, the buffers were engaged in protected concerted activity under Section 7 of the Act,[9] and therefore their discharge was unlawful. Although not spelled out, the Trial Examiner's rationale in making this finding, with which we agree, would appear to be that Section 502 gives employees a right to walk out because of abnormally dangerous working conditions and be protected, even in the face of a no-strike clause in their contract with an employer. There appears to be no

1042

legislative history on Section 502 to explain the purpose of that section. However, as argued by the General Counsel, it is logical to assume that such was the purpose of Section 502, in view of: (1) The decisions of the Board and the Courts under the Wagner Act holding that certain "strikes", including strikes in violation of no-strike clauses, were unprotected; and (2) The fact that the amended Act renders certain "strikes" unprotected under Section 8 (d). Accordingly, we believe that a walkout because of abnormally dangerous working conditions was declared by Congress not to be a "strike" in order to give protection to such a walkout, without regard to limitations on strikes such as those imposed by "no-strike" clauses or by Section 8 (d). We can conceive of no other reasonable purpose. The Respondent argues that: (1) Since such a walkout is not a "strike" under Section 502, "it more logically follows" that it is not protected concerted activity; and (2) Section 502 has no bearing at all on whether the walkout was protected or unprotected. In our opinion, these arguments are not only illogical and unreasonable, but if accepted would render

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[9] The walkout was, of course, a concerted activity "for the purpose of (the buffers') mutual aid or protection" under Section 7.

Section 502 meaningless and a nullity. Congress surely had some purpose in mind other than to simply declare that such a walkout is not a "strike." And the most reasonable purpose, in our view, was to protect the right of employees to quit their labor without penalty in order to protect their health and their lives. The Respondent also cites two cases which it contends "are directly in point and involve situations almost identical with that which exists in the present case." In the first of these cases, the Board held that a walkout because of "hazardous" working conditions was protected, but the Court of Appeals for the Fifth Circuit reversed the Board;[10] however, the grounds for the reversal, neither of which is present here, were that the walkout was inconsistent with the understanding between the bargaining agent and the employer on the grievance, and with the terms of the safety provision of the collective bargaining agreement which called for "corrective measures (to be taken by the employer) within a reasonable time"; and thus there were extenuating circumstances

1043

for not applying the protection of Section 502 to the employees. In the second of these cases,[11] both the Board and the 7th Circuit held that a walkout because of the shutting off of a "blower system" was not protected, but rested their decisions on findings that the walkout was an "intermittent work stoppage";[12] and thus the inherently unlawful nature of the walkout deprived the employees of the protection of Section 502. In the instant case, the buffers did report for

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[10]N. L. R. B. v. American Mfg. Co. of Texas, 203 F. 2d 212 (C. A. 5), reversing 98 NLRB 226

[11]N. L. R. B. v. Kohler Co., 220 F. 2d 3 (C. A. 2), enforcing 108 NLRB 207.

[12]Thus, the employees indicated that they intended to continue working but to quit when they felt like it and not to complete any shift until the employer yielded to their demands See Auto Workers v. Wisconsin Board, 336 U. S. 245.

work the next day, but there is no evidence which indicates that if allowed to work which they were not, they would walk out again before completing their shift; and thus there is insufficient evidence of a "partial strike."

In view of the foregoing, the Board finds that the walkout of the buffers was protected concerted activity by virtue of Section 502 of the Act, despite the non-strike clause in the contract, and that their discharge was therefore unlawful.[13] As we have found that the discharge of the buffers was an unfair labor practice, we also adopted the Trial Examiner's rejection of the Respondent's contention that the Board has not or should not assert jurisdiction with respect to the discharge of the buffers because the grievance procedure of the contract had not been exhausted.[14]

2. The subsequent strike.

As a result of the discharge of the 17 buffers on August 31, and also because of the alleged unlawful refusal of the Respondent to bargain on certain grievances, including the discharge of the buffers, after the contract expired on September 25 (which is discussed infra), the Union called a strike on September 30, 1953. Because the contract had expired, there is of course no issue as to whether this strike was prohibited by the no-strike clause in the contract. Eighty-six employees, representing about ⅔ of the entire complement of employees, participated

in the strike, which continued until June 12, 1954, when the Union notified the Respondent by letter that the strike was "terminated" and "unconditionally" requested reinstate-

[13] In view of this clearly applicable statutory ground on which we rest our decision, we find in unnecessary to consider the two additional grounds urged by the General Counsel in support of his position that the walkout was protected and the discharge therefore unlawful.

[14] See N. L. R. B. v. Walt Disney Products, 146 F. 2d 44 (C. A. 9); N. L. R. B. v. Wagner Iron Works, 120 F. 2d 126 (C. A. 7).

ment of all the strikers.[15] However, the Respondent, in reply, stated that there had been a great many "replacements," and it would only "give consideration" to the reinstatement of any strikers who made individual applications for reinstatement; and up to the date of the hearing on August 17, 1954, the Respondent had rehired only three strikers. When the strike was about to start, Respondent president Morley told several employees that they would be fired if they went out on strike; and by letter dated October 1, the next day, the Respondent notified each of the strikers that the plant was operating as usual, and "In the event you do not report for work . . . by Monday, October 5, the Company will consider that you have quit your employment and you will be replaced by other or new employees." Moreover, on October 5, the Respondent cancelled the group insurance of the strikers, indicating that their employment was "terminated" as of that date. Also, according to credited testimony, four strikers applied for reinstatement during the course of the strike, but all were refused; and one was told that they were not "putting anybody back," another was told that he could not be rehired "until the strike was over," another was told that Morley would not take anybody back" until this thing is settled," and the fourth was told that "you have to come in as a new girl, because right now we can't take any of the old members back."

As found in effect by the Trial Examiner, the fact that the discharge of the buffers was discriminatory, and the fact that the strike of September 30 was caused at least in part by the discriminatory discharge of the buffers, are sufficient to support a finding that the strike was an unfair

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[15]The Trial Examiner construes the letter to be an unconditional offer by the strikers to return to work, and the letter on its face appears to be such. Accordingly, we adopt this finding.

labor practice strike in its inception.[16] Moreover, as we find infra, contrary to the Trial Examiner, that Respondent's refusal to bargain on the grievance concerning the buffers' discharge was also an unfair labor practice, we find that this other cause of the

1045

strike also rendered the strike an unfair labor practice strike in its inception. We find further, as the Trial Examiner did, that Morley's threats of discharge to several employees on September 30 if they joined the strike were violations of Section 8 (a) (1); and that Respondent's refusals to reinstate the four strikers who applied for reinstatement during the strike were violations of Section 8 (a) (3).[17]

We also agree with the Trial Examiner's finding that Respondent's October 1 letter constituted a discharge of all strikers, and therefore that the Respondent unlawfully discharged all strikers as of October 5. As pointed out by the Trial Examiner, Kerrigan Iron Works, Inc.,[18] is distinguishable, for there the Board found that a similar letter did not constitute an actual discharge of strikers, because the employer's subsequent conduct is reemploying 14 strikers during the strike was inconsistent with a discharge; while here the Respondent's unlawful refusal to reemploy 4 strikers who subsequently applied for reinstatement during the strike is consistent with a discharge. Moreover, there is the following additional evidence of an actual discharge here: thus, (1) Morley told several employees on September 30 that they would be fired if they went out on

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[16]See N. L. R. B. v. West Coast Casket Co., 205 F. 2d 902, 907 (C. A. 9), and cases cited therein, for the principle that a strike, even if caused only in part by unfair labor practices, is an unfair labor practice strike.

[17]As unfair labor practice strikers, the 4 strikers were entitled to reinstatement regardless of whether or not they had been replaced. See Northeastern Indiana Broadcasting Co., Inc., 88 NLRB 1381, 1395, and cases cited.

[18]108 NLRB 933, review denied, 219 F. 2d 874 (C. A. 6).

strike; (2) the Respondent cancelled the group insurance of the strikers on October 5, indicating that their employment was "terminated" as of that date;[19] (3) as discussed infra, at a bargaining meeting with the Union on October 14 the Respondent took the position that any new contract would apply only to nonstriking employees, and not to the strikers who had failed to respond to its October 1 letter; (4) the statements, set forth above, were made to the 4 strikers who applied for reinstatement during the strike; and (5) when the strike was over and the Union applied for reinstatement on behalf of the strikers, the Respondent

1046

stated that it would only "give consideration" to reinstatement. We find, therefore, that there was an actual discharge of the strikers on October 5 in violation of Section 8 (a) (3).

In addition, we find, in agreement with the Trial Examiner, that the unfair labor practice strike which commenced on September 30 was continued and prolonged by the unfair labor practices of the Respondent in threatening to discharge those who joined the strike on September 30, discharging the strikers on October 5, and refusing to reinstate the four strikers who applied for reinstatement during the strike.

3. The refusal to bargain.

At several meetings prior to September 25, 1953, Respondent and the Union had not only discussed a new contract, but several grievances as well, including the discharge of the buffers. However, at a meeting on September 25, the Respondent stated that when the contract expired

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[19]There is broad language in the insurance policies that "cessation of active work" shall be deemed "termination of employment." On the other hand, the policies do not say that a strike shall be deemed "cessation of active work."

at midnight that day the possibility of further discussions on the grievances ended with the expiration of the contract, and that henceforth it was willing to bargain on a new contract but unwilling to discuss further the grievances on which it had already given unfavorable replies to the Union. At that time there were eight grievances pending, including the discharge of the buffers; and although not followed to the letter, the Union had in substance gone through the first four steps of the grievance procedure in the contract on these grievances,[20] and there remained only the fifth step of "permissive" arbitration.[21] Neither the Respondent nor the Union made any request for arbitration of the grievances at the September 25 meeting. However, both parties had attempted to arrange for arbitration of the grievance on the discharge

1047

of the buffers at a September 14 meeting, but this was unsuccessful because they were unable to agree on an arbitrator. At a meeting on October 14, Respondent again took the position that it had no legal obligation to discuss the grievances, and would discuss only a new contract; and took the further position that any new contract would apply only to nonstrikers and not to the strikers. At a meeting on October 29, the Respondent again refused to discuss the grievances, on the ground that they were dead issues since the contract had expired under which those grievances had arisen.

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[20]Five of the eight grievances had been presented and answered in writing in accordance with Step 4; and although the other three had been presented and answered only orally, the record shows that oral grievances were sometimes considered and disposed of at Step 4,i. e., with "Plant Management."

[21]Step 5 provides that "If the grievance remains unsettled, the Union or the Company *may* present it to an arbitrator mutually agreed upon by the Company and the Union, if no arbitrator is agreed upon, then an arbitration Panel consisting of three members; one member to be chosen by the Company and one member to be chosen by the Union. These two members shall choose the third member. . . ." (Emphasis supplied.)

The General Counsel contends, in substance, that upon the expiration of the contract, the grievance procedure was no longer in effect, and the general duty to bargain on grievances under the Act was once again operative so as to require the Respondent to bargain on the unsettled grievances; and that this duty was not affected by the Union's failure to invoke the final "arbitration" step of the grievance procedure, because there is no time limitation on invoking any of the five steps of the grievance procedure, and the arbitration step is not mandatory in any event. The Respondent contended at the time, and now contends, in substance, that it satisfied its "channelized" bargaining duty under the grievance procedure of the contract; that the Union could have invoked the arbitration step if it wished; that since the grievances arose under the contract, they could be processed only under the grievance procedure of the contract, and once the contract expired, the grievances "expired" with the contract; and, accordingly, that it had no duty to bargain on the grievances after the expiration of the contract.

The Trial Examiner agrees with Respondent's contention, and finds that Respondent's refusal to bargain on the grievances after the contract expired was not a violation of Section 8 (a) (5). In support of his finding, the Trial Examiner relies on a line of cases which hold, in substance, that where an employer has satisfied its "channelized" bargaining duty under the grievance procedure of a contract, there is no further bargaining duty under the Act.[22] However, as pointed

out by the General Counsel and the Union, these were all cases involving the duty of an employer to discuss griev-

[22]Textron Puerto Rico, 197 NLRB 583; McDonnell Aircraft Corporation, 109 NLRB 930; Timken Roller Bearing Company v. N. L. R. B., 161 F. 2d 949 (C. A. 6); Crown Zellerbach Corp., 95 NLRB 753.

ances during the life of a contract when the grievance procedure was still in effect to be utilized; whereas in the instant case the contract had expired and the grievance procedure was no longer in effect to be utilized;[23] and therefore the grievances could be processed further only through the "general" bargaining process provided for by the Act. Accordingly, this line of cases is distinguishable, and not dispositive of the issue in the instant case. In our opinion, these cases stand only for the principle that a contractual grievance procedure is the "channel" for the collective bargaining duty on grievances which may be disposed of under such procedure, or are finally disposed of under such procedure. If that "channel" of bargaining is no longer available for grievances remaining unsettled under it, it follows that the general duty to bargain on grievances under the Act is once again operative. Such grievances do not "expire" with the contract simply because they arose under it, but are rather returned to the area of general bargaining under the Act in the absence of any "channelization" of bargaining. And this is certainly so where, as here, the contract does not provide for any such "expiration." Accordingly, the question in the instant case is whether the grievances in issue were "finally disposed of" under the grievance procedure, or whether they were still "unsettled" at the expiration of the contract; if finally disposed of under the grievance procedure there was no further duty to bargain on them under the "general" statutory duty to bargain, but if still unsettled there was a further general statutory duty to bargain on them.

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[23]The no-strike clause of the contract provides: "It is agreed between the Union and the Company that *during the term of this agreement*, there shall be no strike, slowdown or other stoppage of work, and in the event the Union and the Company are unable to settle a particular grievance, it shall be settled by arbitration pursuant to (Step 5 of the grievance procedure) at the request of either party in writing." (Emphasis supplied.)

The Respondent points to the fact that, although arbitration procedure was available, the Union did not request arbitration on September 25, and suggests

1049

that this therefore was "final disposition" of the grievances under the grievance procedure. However, there was no time limit on invoking any of the steps in the grievance procedure, which would mean that a "reasonable" time was permitted. Only 11 days prior to September 25 the Union had unsuccessfully attempted to present the buffer grievance to "an arbitrator mutually agreed upon" under the first step of the arbitration provision. In the absence of any time limit on invoking the next step of selecting an "arbitration panel,"[24] we do not believe that the Union's failure to invoke this next step within 11 days was "unreasonable" or violative of the arbitration provision of the contract. We find, therefore, that the buffer grievance at least was still "unsettled" at the expiration of the contract, and consequently that the Respondent's refusal to bargain on the buffer grievance after the expiration of the contract was a violation of Section 8 (a) (5) of the Act.[25]

The General Counsel excepts to the Trial Examiner's failure to find that the Respondent also violated Section 8 (a) (5) by taking the position at the October 14 bargaining meeting that any new contract would apply to nonstrikers and not to the strikers. As recently stated by the Board, Board and Court precedent hold that a refusal to bargain with a certified bargaining representative during a strike is

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[24]See footnote 20, supra.

[25]As the General Counsel apparently does not seek a finding that Respondent's refusal to bargain on the other seven grievances was unlawful, we shall not consider that issue. In any event, such a finding would not affect our Order herein. Chairman Leedom would not reach any part of the grievance issue on the ground the Order is not affected thereby.

a violation of Section 8 (a) (5).[26] The rationale behind this doctrine is that strikers retain their "employee" status under the Act; the representative thus remains the statutory representative of the "employees"; and therefore the representative is entitled to bargain on behalf of such "employees" even though they are on strike.[27] In the instant case, the Respondent did not completely refuse to bargain with the certified bargaining representative during

1050

the strike, but only refused to bargain with respect to the strikers. However, the same rationale is applicable, viz., that the Union was entitled to bargain with respect to the striker "employees" as well as the nonstriker "employees," and therefore Respondent's refusal to bargain with respect to the strikers was unlawful.[28] Indeed, it might be argued that this is an even stronger case than a complete refusal to bargain during a strike, because of the "discriminatory" position taken by the Respondent that it would bargain only with respect to the nonstrikers and not with respect to the strikers. We find, therefore, that the Respondent's position taken at the October 14 meeting, that any new contract would apply only to nonstrikers and not to the strikers, was a violation of Section 8 (a) (5).

The remedy

As we have found that the Respondent has also engaged in unfair labor practices in violation of Section 8 (a) (5) of the Act, we shall, in addition to adopting the remedy

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[26]See R. J. Oil & Refining Co., Inc., 108 NLRB 641, and cases cited therein.

[27]See N. L. R. B. v. Reed & Prince Mfg. Co., 118 F. 2d 874, 885 (C. A. 1).

[28]There is of course no question as to whether the strikers were still "employees", in view of the fact that they were unfair labor practice strikers who could not lawfully be replaced. See Northeastern Indiana Broadcasting Co. Inc., supra, and cases cited.

recommended by the Trial Examiner with respect to the Respondent's violations of Section 8 (a) (1) and 8 (a) (3), order the Respondent to cease and desist therefrom, and to bargain collectively upon request with the Union as the exclusive bargaining representative of all employees in the bargaining unit described herein with respect to wages, rates of pay, hours of employment or other conditions of employment, and if an understanding is reached embody such understanding in a signed agreement.

ORDER

Upon the entire record in this case, and pursuant to Section 10 (c) of the National Labor Relations Act, as amended, the National Labor Relations Board hereby orders that the Respondent, Knight Morley Corporation, Richmond, Michigan, its officers, agents, successors, and assigns, shall:

1. Cease and desist from:

(a) Discouraging membership in International Union, United Automobile, Aircraft and Agricultural Implement Workers of America, AFL-CIO, and Local 1125, International Union, United Automobile, Aircraft and Agricultural Implement Workers of America, AFL-CIO, or any other labor organization of its employees, by discriminatorily discharging or refusing to reinstate or reemploy employees for the reason that they engaged in strike or other concerted activities protected by the Act, or by discriminating in any other manner in regard to their hire and tenure of employment or any term or condition of employment;

(b) Threatening to discharge employees for engaging in a strike;

(c) Refusing to bargain with said Union as the exclusive representative of all production and maintenance em-

ployees at its Richmond, Michigan, plant, excluding office and clerical employees, chemists, watchmen, and supervisors as defined in the Act;

(d) In any other manner interfering with, restraining, or coercing its employees in the exercise of their right to self-organization, to form, join, or assist the aforesaid Union, or any other labor organization, to bargain collectively through representatives of their own choosing and to engage in concerted activities for the purpose of collective bargaining or other mutual aid or protection, or to refrain from any or all of such activities except to the extent that such right may be affected by an agreement requiring membership in a labor organization as a condition of employment as authorized in Section 8 (a) (3) of the Act.

2. Take the following affirmative action which the Board finds will effectuate the policies of the Act:

(a) Offer the employees named in Schedule A and Schedule B attached to the Intermediate Report full reinstatement to their former or substantially equivalent positions, without prejudice to their seniority or other rights and privileges, as provided in the section in the Intermediate Report entitled "The remedy";

1052

(b) Make whole the employees named in said Schedule A and Schedule B, in the manner set forth in the section in the Intermediate Report entitled "The remedy," for any loss of pay they may have suffered by reason of the Respondent's discrimination against them;

(c) Upon request, bargain collectively with said Union as the exclusive representative of all employees in the bargaining unit described above with respect to wages, rates of pay, hours of employment or other conditions of employ-

ment, and if an understanding is reached embody such understanding in a signed agreement;

(d) Upon request, make available to the Board and its agents, for examination and copying, all payroll records, social security payment records, time cards, personnel records, and all reports and other records necessary to analyze the amount of back pay due;

(e) Post at its Richmond, Michigan, plant copies of the notice attached hereto marked "Appendix."[29] Copies of said notice, to be furnished by the Regional Director for the Seventh Region, shall, after being duly signed by the Respondent, be posted by it immediately upon receipt thereof and be maintained by it for a period of at least sixty (60) consecutive days thereafter in conspicuous places, including all places where notices to employees are customarily posted. Reasonable steps shall be taken by the Respondent to insure that said notices are not altered, defaced, or covered by any other material;

1053

(f) Notify the Regional Director for the Seventh Region, in writing, within ten (10) days from the date of this Order what steps the Respondent has taken to comply herewith.

Dated, Washington, D. C.

Boyd Leedom, Chairman
Abe Murdock, Member
Ivar H. Peterson, Member
National Labor Relations Board.

(Seal)

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[29]In the event this Order is enforced by a decree of a United States Court of Appeals, the notice shall be amended by substituting for the words "PURSUANT TO A DECISION AND ORDER," the words "PURSUANT TO A DECREE OF THE UNITED STATES COURT OF APPEALS ENFORCING AN ORDER."

Philip Ray Rodgers, Member, concurring:

I agree with my colleagues in their ultimate conclusion that the discharge of the buffers was an unfair labor practice. I wish to make clear, however, that I join in this finding only because the credited objective testimony and expert evidence substantiates the existence of factual circumstances constituting conditions of danger to the buffers. In this connection, I note that the credited expert testimony shows that the buffers faced conditions of danger of "heat disease" so that within one to three hours the buffers might reach the end of their capacity to work and might actually not survive if not given immediate medical care and that the physical ailments which the "dust" would and did cause constituted abnormally dangerous conditions for work.

In applying the legal principles pertinent to the instant case, I am assuming the facts as found by the Trial Examiner, which appear to be adequately supported by the record in this case. I would not join in this finding, however, if it were predicated on subjective, as distinguished from objective, evidence. I believe that it is important to circumscribe the application of the legal principles in this case by making it clear that the Board is not opening the door to "quickie" work stoppages and walkouts at any time the employees so desire by the expedient of claiming that conditions of work are unsuitable. Only where it is established by competent evidence, as it was in the factual circumstances that were developed at the hearing in

the instant case, that the conditions actually constituted abnormally dangerous conditions of work, would I find that the action of employees in abstaining from further work falls within the protection of the statute as a concerted activity. In other words, the crux of the test, as I see it, is not the state of mind of the employees but rather the

existence or lack of existence of factual circumstances as demonstrated by competent, reliable objective evidence. With this in mind, I join my colleageus in their ultimate conclusions.

Dated, Washington, D. C.

Philip Ray Rodgers, Member
National Labor Relations Board.

Stephen S. Bean, Member, concurring:

I agree in all respects in the decision of my colleagues to find that the Respondent Company violated Section 8 (a) (3) and (1) of the statute as alleged in the complaint. I also agree that the Company unlawfully refused to bargain with the Union after the inception of the strike when it refused to recognize the Union as the bargaining representative of those employees who were still on strike. I find it unnecessary to pass upon the various additional allegations that the Respondent also violated Section 8 (a) (5) in other ways. In any event, our ultimate conclusion, restraining order, and affirmative remedial orders remain the same.

I also am in accord with the conclusion that all the unlawfully discharged buffers and all those strikers who were either unlawfully discharged or refused reinstatement because of their strike activities, are entitled to back pay and full reinstatement now in accordance with the Board's usual remedial order.

As to the nature of the September 30 strike, however, I have serious doubts as to whether the record supports the allegation that the Union initially struck because of the antecedent illegal conduct of the Company rather than for the purpose of winning its economic demands. I believe the record establishes the fact that this was an economic strike, but it is not so clear to me as it is to my majority

colleagues that it was an unfair labor practice strike. It is immaterial in any event how the strike

1055

be characterized now. All the employees named in the complaint were the object of the Employer's unlawful discrimination and as to each of them the order and remedy now made would be the same regardless of how the strike be described. I therefore do not join in the finding that an unfair labor practice strike took place in this instance.

Dated, Washington, D. C.

Stephen S. Bean, Member
National Labor Relations Board.

1056

APPENDIX

NOTICE TO ALL EMPLOYEES

Pursuant To

A Decision And Order

of the National Labor Relations Board, and in order to effectuate the policies of the Labor Management Relations Act, we hereby notify our employees that:

We Will Not discourage membership in International Union, United Automobile, Aircraft and Agricultural Implement Workers of America, AFL-CIO, and Local 1125, International Union, United Automobile, Aircraft and Agricultural Implement Workers of America, AFL-CIO, or in any other labor organization of our employees, by discriminating in regard to their hire or tenure of employment, or any terms or conditions of employment.

We Will Not Discharge or discriminatorily refuse to reinstate or reemploy any of our employees for engag-

ing in strike or other concerted activities protected by the Act.

We Will Not threaten our employees with discharge for engaging in a strike.

We Will Not refuse to bargain with said Union as the exclusive representative of the employees in the bargaining unit described below.

We Will Not in any other manner interfere with, restrain, or coerce our employees in the exercise of their right to self-organization, to form labor organizations, to join or assist the aforesaid labor organization, or any other labor organization, to bargain collectively through representatives of their own choosing, and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection, or to refrain from any or all of such activities, except to the extent that such right might be affected by an agreement requiring membership in a labor organization as a condition of employment, as authorized in Section 8 (a) (3) of the Act.

We Will offer to the employees named below immediate and full reinstatement to their former or substantially equivalent positions, without prejudice to any seniority or other rights and privileges previously enjoyed, and make them whole for any loss of pay suffered as a result of the discrimination against them:

Helen Anderson	Helen Bobcean
Robert Arnold	Gabriella Bruder
Dolores Balhorn	Wanna Burns
Clarence Bantien	L. Burns
Fred Barber	Anna Carpenter
Violet Barber	Dorothy Cezik
Walter Bashford	John Curzydlo
Norwood Beier	Louise Dion

Joseph Doggendorf
Glen Dove
Ralph Dove
W. Eggert
Betty Elsholz

1057

Glenn Basnow
L Basnow
Edmund Baumgarten
William Baumgarten
Frank O. Behmler
Alonzo Garlick
Lottie Garlick
Edward Gierke
Herman Gunst
Lawrence Harrison
Harry Harsch
Clara Henke
Marvin Hulett
Lorraine Hunger
W. Jackowski
Jacqueline Jeffery
Alfred Kammer
Clarence Kammer
Walter Kaufman
George Kelly
Esther Kesner
Stella Kraatz
Daisy Lynch
Tillie Lyszczyk
D. McCue
Anna Machowski
Sara Maher
Daisy Martin
Ethel Chaltron
Harold Chaltron
Daniel Collins
Dolores Collins
Mary Collins
Leona Martindale
Virginia McDonald
Emma Meyers
E. Meyers
Colleen Middleton
Charles Miller
Irene Musial
Joe Muniz
William Newton
Eva Oswald
Lily Paling
Thomas Pietrikowski
Lester Porrett
Helen Przytakowski
[illegible]ian Redlin
Eleanor Renner
Leona Ross
Blanche Russell
Andra Scribner
H. Schultz
Robert Seifert
Carlton Semos
Stella Setter
Veronica Essenberg
Lawrence Evans
Francis Fasbender
Gladys Fenton
Wayne Fistler
Harriett Sinda
Russell Simons
John Smith
Richard Somes
Gladys Storey
George Stragea
Joseph Sulak
Wallace Teltow
William Teska
Tommassewski
Jess Underwood

Wallace Underwood	Phillip M. Whittaker
Gladys Verscheure	Charles R. Wiswell
Chester Warren	John N. Willing
Donna Waterloo	J. H. Willings
Robert J. Whitcome	Thaddeus Zembol

We Will bargain collectively upon request with said Union as the exclusive representative of all employees in the bargaining unit described below with respect to wages, rates of pay, hours of employment or other conditions

1058

of employment, and if an understanding is reached embody such understanding in a signed agreement. The bargaining unit is:

> All production and maintenance employees at our Richmond, Michigan, plant, excluding office and clerical employees, chemists, watchmen, and supervisors as defined in the Act.

All our employees are free to become or remain members of the above named Union or any other labor organization. We will not discriminate in regard to hire or tenure of employment or any term or condition of employment against any employee because of membership in or activity on behalf of any such labor organization.

Knight Morley Corporation
(Employer)

Dated..... By.....
(Representative) (Title)

This notice must remain posted for 60 days from the date hereof, and must not be altered, defaced, or covered by any other material.

In the
UNITED STATES COURT OF APPEALS
For the Sixth Circuit

National Labor Relations Board, - - Petitioner,

v.

Knight Morley Corporation, - - - Respondent.

PETITION FOR ENFORCEMENT OF AN ORDER OF THE NATIONAL LABOR RELATIONS BOARD

To the Honorable, the Judge of the United States Court of Appeals for the Sixth Circuit:

The National Labor Relations Board, pursuant to the National Labor Relations Act, as amended (61 Stat. 136, 29 U.S.C., Secs. 151, et seq.) hereinafter called the Act, respectfully petitions this Court for the enforcement of its order against Respondent, Knight Morley Corporation, Richmond, Michigan, its officers, agents, successors, and assigns. The proceeding resulting in said order is known upon the records of the Board as "Knight Morley Corporation and International Union, United Automobile, Aircraft and Agricultural Implement Workers of America, AFL-CIO, and Local 1125, International Union, United Automobile, Aircraft and Agricultural Implement Workers of America, AFL-CIO, Case No. 7-CA-995."

In support of this petition the Board respectfully shows:

(1) Respondent is a Michigan corporation engaged in business in the State of Michigan, within this judicial circuit where the unfair labor practices occurred. This Court therefore has jurisdiction of this petition by virtue of Section 10 (e) of the National Labor Relations Act, as amended.

Petition for Enforcement, Etc.

(2) Upon due proceedings had before the Board in said matter, the Board on July 12, 1956, duly stated its findings of fact and conclusions of law, and issued an Order directed to the Respondent, its officers, agents successors, and assigns. On the same date the Board's Decision and Order was served upon Respondent by sending a copy thereof postpaid, bearing Government frank, by registered mail, to Respondent's counsel.

(3) Pursuant to Section 10 (e) of the National Labor Relations Act, as amended, and pursuant to Rule 13 (7) of this Court, the Board is certifying and filing with this Court a certified list of all documents, transcripts of testimony, exhibits and other material comprising the entire record of the proceeding before the Board upon which the said Order was entered, which transcript includes the pleadings, testimony and evidence, findings of fact, conclusions of law, and the Order of the Board sought to be enforced.

Wherefore, the Board prays this Honorable Court that it cause notice of the filing of this petition and transcript to be served upon Respondent and that this Court take jurisdiction of the proceeding and of the questions determined therein and make and enter upon the pleadings, testimony and evidence, and the proceedings set forth in the transcript and upon the Order made thereupon a decree enforcing in whole said Order of the Board and requiring Respondent, its officers, agents, successors, and assigns, to comply therewith.

(s) Stephen Leonard,
Associate General Counsel,
National Labor Relations Board

Dated at Washington, D. C.,
this 15th day of January, 1957.

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Office - Supreme Court, U.S.
FILED
MAY 14 1958
JOHN T. FEY, Clerk

No. 13,116

IN THE

United States Court of Appeals for the Sixth Circuit

NATIONAL LABOR RELATIONS BOARD,
Petitioner,
vs.
KNIGHT-MORLEY CORPORATION,
Respondent

ON PETITION FOR ENFORCEMENT OF AN ORDER OF THE NATIONAL LABOR RELATIONS BOARD

SUPPLEMENT TO JOINT APPENDIX

Interstate Brief & Record Co., 642 Beaubien St., Detroit 26, Michigan

IN THE

United States Court of Appeals for the Sixth Circuit

No. 13,116

NATIONAL LABOR RELATIONS BOARD,
Petitioner,
vs.
KNIGHT-MORLEY CORPORATION,
Respondent

ON PETITION FOR ENFORCEMENT OF AN ORDER OF THE NATIONAL LABOR RELATIONS BOARD

SUPPLEMENT TO JOINT APPENDIX

In printing the Joint Appendix that portion of Respondent's Exhibit 1-A designated by Respondent to be included was inadvertently omitted, so all portions of said Exhibit 1-A as designated by both parties have been incorporated in this Supplement to the Joint Appendix.

RESPONDENT'S EXHIBIT No. 1-A

AGREEMENT

Between

KNIGHT-MORLEY CORPORATION
Richmond, Michigan

and

LOCAL No. 1125

International Union
United Automobile, Aircraft
and Agricultural Implement
Workers of America—CIO
(U. A. W.—CIO)

(union label)

* * * * *

GRIEVANCE PROCEDURE

8. (a) Step 1. A grievance of an employee, or group of employees, shall be taken up by the employee, or group of employees, with the Group Steward and then, together with the Departmental Foreman. If a satisfactory settlement cannot be arrived at with the Foreman, the grievance shall be then referred by the Steward to:

1. The Chief Steward, if the grievance originates on a shift where there is no committeeman.
2. A committeman, if the grievance originates on a shift where a committeman is working.

(b) Step 2. The Chief Steward or a Committeman, (whichever the case may be) accompanied by the Steward, shall attempt to work out a solution with the Foreman. If no satisfactory settlement results the Chief Steward (or Committeeman) may then reduce the grievance to writing.

(c) Step 3. The grievance written or oral shall then be referred by the Union to the Group Committeeman, who shall then take the grievance up with the Plant Superintendent for discussion and possible settlement, and the position of the Superintendent shall, within twenty-four hours, be written on the grievance form if presented in writing.

(d) Step 4. If, as a result of Step 3, the grievance remains unsettled, the Plant Shop Committee shall then further process the grievance in writing in a meeting with Plant Management, as hereafter provided for, who will give its answer in writing within five days thereafter.

(e) Step 5. If the grievance remains unsettled, the Union or the Company may present it to an arbitrator mutually agreed upon by the Company and the Union, if no arbitrator is agreed upon, then an arbitration panel consisting of three members; one member to be chosen by the Company and one member to be chosen by the Union. These two members shall choose the third member. The decision of the arbitration panel shall be final and binding on both parties and the cost of the third member shall be borne equally by the Company and the Union. The arbitration panel may not add to or subtract from the terms of this agreement.

* * * * *

14. It is agreed between the Union and the Company that during the term of this agreement there shall be no strike, slow down or other stoppage of work, and in the event the Union and the Company are unable to settle a particular grievance it shall be settled by arbitration pursuant to Section 8(e) at the request of either party in writing.

15. Should the Company believe that any provisions of this contract have been violated, or that it has a grievance against the Union, or any of its members, it shall reduce the grievance to writing, and present it to the Shop Committee for discussion and consideration. If no satisfactory adjustment results the Company and the Committee, together with a representative of the International Union, shall meet as promptly as possible and attempt to reach a satisfactory solution to the problem involved. Failing in

this attempt the matter may then be presented by the Company through the arbitration procedure as hereinbefore provided.

* * * * *

SENIORITY

24. An employee shall lose his seniority rights and be considered terminated from his employment when he or she (a) quits of his or her own accord; (b) is discharged for cause; (c) unexcused absence for more than three (3) consecutive regular working days or more than five (5) regular working days in any calendar month, providing that if any employee habitually takes advantage of such five (5) day period, he shall be subject to discharge; (d) fails to return to work upon expiration of a leave of absence; (e) fails to report to work (unless prevented by sickness or accident) within three (3) days of receipt of said notice or within seven (7) days from the date the notice would ordinarily be received had the employee provided means of contract; (f) *has given false reason for obtaining a leave of absence or sick leave;* (g) accepts work while on leave at some other place without the consent of the COMPANY and the UNION; (h) has been laid-off for a period of two years or more unless the employee reports to the COMPANY each six (6) months thereafter his address and his willingness to work if work is available.

* * * * *

DISCIPLINARY ACTION

33. Dishonesty, insubordination, failure to do appointed work, failure to comply with the agreed grievance procedure, failing to report for work without sufficient reason and notification, intoxication or bringing intoxicating liquors into the shop, shall be sufficent cause for discharge. In cases involving disciplinary lay-off or discharge the COMPANY shall inform the UNION the reason for such disciplinary action. The employee may be sent home and his pay terminated effective as of the time the disciplinary action is taken by the COMPANY.

34. In the event it is found through recourse to the grievance procedure contained herein that an employee was improperly discharged or laid-off he shall be reinstated with full seniority rights and be reimbursed for all time lost.

* * * * *

GENERAL

45. The COMPANY and the UNION declare it to be their intention to prevent any suspension of work during the term of this agreement due to labor disputes. To effectuate this intention the COMPANY agrees that it will not lock-out any of its employees or otherwise change prejudicially the terms and conditions of their employment in connection with any dispute concerning wages, hours and working conditions.

46. The UNION agrees that it will not cause any strikes or work stoppages during the term of this agreement; that if any of the employees within the bargaining unit covered by this agreement acting without authorization or approval of the UNION should engage in such a work stoppage or strike, the UNION will promptly direct such employees to resume work and will take all appropriate and feasible steps to terminate the strike.

47. The UNION agrees that during the normal course of the grievance procedure, the Shop Committee will not interfere with the COMPANY'S instructions or orders, provided such instructions or orders that may be contrary to the terms of this agreement may be brought up by the UNION as a grievance.

* * * * *

50. Overtime shall be divided equally among employees of a department wherever practicable.

* * * * *

53. The right to hire, promote, transfer, discharge, discipline, and to maintain efficiency of employees is reserved to and is the responsibility of the COMPANY. Such rights shall be exercised in accordance with the terms of this

agreement and shall not be employed to adversely affect the rights of employees as provided for in this agreement.

54. The COMPANY agrees to maintain such sanitary and healthful working conditions and provide such safety devices as are required by the laws of the State of Michigan. The employees in the performance of their jobs shall at all times use all safety devices, protective equipment and special clothing which are furnished by the COMPANY.

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IN THE

Supreme Court of the United States

OCTOBER TERM, 1957

No. 1004

KNIGHT MORLEY CORPORATION,
Petitioner,
vs.
NATIONAL LABOR RELATIONS BOARD,
Respondent

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

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INDEX

	Page
Petition for Writ of Certiorari	1
Opinions Below	2
Jurisdiction	2
Questions Presented	2
Statutes Involved	3
Statement	3
Reasons for Granting the Writ	15
A. As to the Section 502 Question	15
B. As to the "Unfair Labor Practice Strike" Question	22
Conclusion	24
Appendix A (Opinion of Court of Appeals)	1a
Appendix B (Decree and Order of Court of Appeals)	13a
Appendix C (Statutes Involved)	15a

CITATIONS

Cases:

C. G. Conn, Ltd. v. National Labor Relations Board, 108 F. 2d 390	16
Home Beneficial Life Insurance Co. v. National Labor Relations Board, 159 F. 2d 280, cert. denied 332 U. S. 758	16
International Union, UAW v. Wisconsin Employment Relations Board, 336 U. S. 245	16
Mastro Plastics Corp. v. National Labor Relations Board, 350 U. S. 270	18
National Labor Relations Board v. American Manufacturing Company of Texas, 203 F. 2d 212, reversing Board Decision 98 N. L. R. B. 226	18

Page

National Labor Relations Board v. Jones & Laughlin Steel Corp., 301 U. S. 1 20

National Labor Relations Board v. Kohler Company, 220 F. 2d 3 16

National Labor Relations Board v. Local Union No. 1229, 346 U. S. 464 16

National Labor Relations Board v. Mackay Radio & Telegraph Co., 304 U. S. 333 23

National Labor Relations Board v. Montgomery Ward & Co., 157 F. 2d 486 16

National Labor Relations Board v. Rockaway News Co., 345 U. S. 71 18

National Labor Relations Board v. Sands Manufacturing Co., 306 U. S. 332 18

National Labor Relations Board v. Stafford, 206 F. 2d 19 21

Statutes:

Labor Management Relations Act—1947, 29 U. S. C. 141-187 ..... 2, 3

Michigan Statutes Anno., Sec. 17.36-17.39, Act No. 285 of Michigan Public Acts of 1909, as amended, Secs. 27-30 5

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vs.
NATIONAL LABOR RELATIONS BOARD,
Respondent

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

Knight Morley Corporation, petitioner herein, prays that a writ of certiorari issue to review the decree of the Court of Appeals for the Sixth Circuit entered in the above cause on December 18, 1957 (petition for rehearing denied February 13, 1958) enforcing an order of the National Labor Relations Board (hereinafter called the "Board") dated July 12, 1956.

OPINIONS BELOW

The Intermediate Report and Recommended Order of the Trial Examiner is unreported and is printed in the Joint Appendix filed in the Court of Appeals at page 430a. The decision and order of the National Labor Relations Board is reported at 116 N. L. R. B. 140 (No. 6) and is printed in the Joint Appendix filed in the Court of Appeals at page 489a. The opinion of the Court of Appeals dated December 18, 1957 on the Board's petition for enforcement and the opinion of the Court of Appeals dated February 13, 1958 on the Company's petition for rehearing are reported at 251 F. 2d 753 and are printed in Appendix A, *infra*, at page 1a.

JURISDICTION

The decree of the Court of Appeals on the Board's petition for enforcement of its order was entered on December 18, 1957 (Appendix B, *infra*, p. 13a).

A petition for rehearing was duly filed and was denied on February 13, 1958 (Appendices A and B, *infra*, pp. 10a and 13a). The jurisdiction of this Court is invoked under 28 U. S. C. 1254 (1) and 29 U. S. C. 160 (e).

QUESTIONS PRESENTED

1. Whether, under Section 502 of the Labor Management Relations Act—1947, employees, who stop work and leave their jobs in violation of instructions but without striking and in protest against working conditions which are not believed by their employer to be dangerous but which are believed by the employees to be dangerous but without informing their employer of that belief, may prop-

erly be discharged for cause during the term of a collective bargaining agreement containing a covenant to settle, without work stoppage or lockout all disputes concerning working conditions under the agreed grievance procedure and also providing that failure to do appointed work or failure to comply with the agreed grievance procedure shall be a sufficient cause for discharge.

2. Whether a strike which is called by the union to enforce its demand that the employer settle a grievance by collective bargaining rather than in accordance with the grievance and arbitration procedure in effect at the time it arose and under which it was originally submitted and handled is an economic strike in which strikers may be replaced or an unfair labor practice strike in which strikers may not be replaced.

STATUTES INVOLVED

The relevant provisions of the Labor Management Relations Act, 1947 (29 U. S. C., Secs. 141 *et seq.*) are set forth in Appendix C, *infra*, page 15a.

STATEMENT

The Facts. In August of 1953 the petitioner, Knight Morley Corporation, operated a manufacturing plant at Richmond, Michigan, for the production of rear view mirrors, gas caps and similar automobile accessories with approximately 140 employees working on two shifts[1] (R. 4a, 75a, 90a, 439a).[2] Its production employees were repre-

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[1] The "day" shift worked from 7:00 A. M. to 3:30 P. M. and the "afternoon" shift from 3:30 P. M. to midnight (R. 90a).

[2] We use the designation "R" to refer to the printed joint appendix in the Court below which is contained in two volumes entitled Joint Appendix (pages 1a to 518a) and Supplement to Joint Appendix (pages 519a to 524a).

sented by the UAW-CIO under a collective bargaining agreement which was due to expire on September 25, 1953 and the parties were in the process of negotiating a new contract (R. 434a). This agreement provided that during its term there would be no strikes or other work stoppages by the employees or lock-outs by the employer and that if any of the employees engaged in a strike or work stoppage without union authorization it would promptly direct them to resume work. It further provided that all labor disputes, including disputes concerning wages, hours, working conditions and discharges would be handled and settled through the detailed grievance and arbitration procedure set forth in the contract and that pending such settlement there would be no interference with the company's instructions or orders even if contrary to the terms of the agreement. It also provided that the company would provide such safety devices and sanitary and healthful working conditions as are required by law and that insubordination, failure to do appointed work and failure to comply with the agreed grievance procedure would be sufficient cause for discharge (R. 434a-438a, 520a-524a).

Petitioner's manufacturing operations consisted of tool making, miscellaneous machining, stamping, die casting, plating, buffing and assembling (R. 75a, 439a). The buffing room occupied an area 80 feet by 25 at the northeast corner of the plant (R. 440a). It was ventilated by a continuous row of open windows along the 80 foot north wall and the 25 foot east wall and by two ceiling high openings into other portions of the plant, one 12 feet wide and the other 20 feet wide. A 24 inch high speed pedestal fan circulated the air from one end of the room to the other (R. 124a, 193a, 239a-240a, 363a, 440a, 450a).

There were thirteen buffing machines in the room and, in compliance with Michigan law,[3] the buffing wheels, which were made of layers of cotton impregnated with buffing compounds, were partially enclosed by hoods which were designed to trap a portion of the lint and dust thrown off by the wheels, the heavier particles falling on to the floor and the lighter particles being sucked through a system of piping to a cyclo-wash unit where the dirt is screened out (R. 81a, 83a-84a, 152a, 439a). The suction for this dust exhaust system was created by a centrifugal type paddle wheel fan situated in a housing on the top of the roof which had a capacity of 14,430 cubic feet of air per minute which was 60% in excess of the 9,000 cubic foot capacity required by law for the removal of dust from the buffing wheel hoods (R. 36a, 439a).

On Saturday, August 29, 1953, a new switchbox controlling the dust exhaust fan was installed and in the process the wires were reversed thereby causing the paddle wheel type exhaust fan to revolve in a reverse direction resulting in a loss of efficiency the amount of which was disputed but which the Trial Examiner found to be 75 per cent (R. 440a). The sequence of events which occurred prior to the discovery and correction of the reversed wires are set forth in their chronological order.

On Monday, August 31, the day shift of buffers noticed an unusual amount of dust and lint in the air and complained to their foreman that the dust exhaust system was not operating too well (R. 153a, 440a) . They all blamed it on the fact that the pipes were clogged with dirt as they had not been cleaned out on Saturday as was customary,[4]

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[3] Mich. Stat. Anno., Secs. 17.36-17.39; Act No. 285 of the Michigan Public Acts of 1909, as amended, Secs. 27-30 (R. 35a-37a).

[4] Saturday is a non-working day and petitioner had been unable to get any employees to come in to do the job (R. 88a, 441a).

and after working their minimum required paytime of two hours, they were sent home and the system was cleaned up (R. 87a-88a, 170a-171a, 441a).

When the afternoon shift of buffers reported for work they learned that the morning shift in their department had been sent home after working only two hours, and, before they started to work, their union local president told Mr. Morley, petitioner's president, that it was too hot a day to work[5] and that under the contract the afternoon shift was entitled to go home after working two hours the same as the morning shift. Mr. Morley replied that the day shift had not been sent home because of the heat but in order to clean the dust exhaust system which had not been cleaned on Saturday, that the buffing department production was necessary to keep the plant in operation, and that there was no reason why the afternoon shift should not work (R. 131a, 198a-200a, 364a-365a, 441a).

When the seventeen afternoon shift buffers commenced work at 3:30 P. M. by raking their wheels to level them off, they immediately noticed that the dust exhaust system was not operating as efficiently as it should with the result that an excess amount of dust and lint got into the air and stuck to their skin and clothes which on this unusually hot day made them feel disagreeable and uncomfortable (109a-112a, 126a, 138a, 142a, 189a, 325a, 338a). After working approximately an hour they informed the union steward, Joe Muniz, and the union president, Harry Harsch, both of whom were buffers themselves, that they didn't want to work under the prevailing conditions and asked them to see if something couldn't be done about the situation (R. 109a, 186a, 234a, 238a, 240a, 323a). The

[5] The buffers had noted thermometer readings as high as 98 degrees on their way to work and testified that a thermometer on one of the buffing machines registered 110 degrees (118a, 125a, 441a).

complaint that the dust exhaust system wasn't working as efficiently as it should was passed on to the management and, in the absence of the regular maintenance crew who worked only on the day shift, Mr. Wiswell the shop foreman, Mr. Hicks, the plant superintendent, and Mr. Morley, the company president, all came to the buffing room and checked the system over as best they could. They rechecked the water level in the cyclowash unit, they checked the pipes for dirt, they heard the exhaust fan on the roof operating normally, they made smoke tests which indicated that there was suction in the pipes, and they were unable to find anything wrong with the system, which, as far as they could see, was functioning the same as always and they so informed the buffers (R. 90a-91a, 234a-236a, 406a-409a, 44?a, 449a-450a). When the supervisory group left the room the buffers discussed the situation and decided that they would not work with the dust exhaust system operating as it was and would go home until it was fixed (R. 187a, 189a, 324a, 443a).

In the past it had been customary to permit the buffing department employees to stop work on those occasions when the dust exhaust system had completely stopped running and to send them home if it couldn't be started (R. 93a, 115a-116a, 189a-190a), but it was also customary for the men to continue working when there was a dispute regarding the efficiency of the system while it was settled in accordance with the grievance procedure of the labor contract, and such a grievance had been so handled just a year previously (R. 37a-38a, 86a).

As the buffers were preparing to leave, Mr. Hicks and Mr. Morley both informed them that if they stopped work and went home without permission they would be violating both the company rule against leaving work without permission and the union contract and would be discharged

(R. 91a-92a, 187a, 238a, 411a, 444a). At approximately 5:15 to 5:30 P. M., without company or union approval they shut down their machines and walked out in protest against the inefficient operation of the dust exhaust system and were discharged (R. 92a, 189a, 191a, 195a, 412a, 444a). Two or three employees from other departments, all of which continued to work, were transferred to the buffing department where they finished out the shift (R. 95a, 365a-366a).

The following day the dispute over the efficiency of the dust exhaust system continued, with the day shift buffers claiming it was not up to standard and Mr. Morley that it was operating normally, and no one actually knowing the answer (R. 155a, 174a, 413a). A union committee suggested that a health inspector be called to check the system to which Mr. Morley agreed and also said he would check it with an air indicator, but at 3:30 P. M. the crossed wires in the switchbox were discovered by the maintenance crew and the dust exhaust system was restored to its full efficiency (R. 97a, 175a, 415a, 444a). The day shift, with the conditions of work the same as on the previous day, continued at work, excepting for one man, and permitted their grievance to be settled under the procedure prescribed in their labor contract, and their production was above normal (R. 174a-177a, 367a-369a).

Although four of the eight afternoon shift buffers who testified at the trial asserted that when they walked out they believed that the breathing of particules of dust would not be good for their health (R. 116a, 142a, 188a, 325a), they admittedly did not inform management of this belief or otherwise make any claim that they considered the conditions for work to be unhealthy or dangerous or that they were refusing to work for this reason (R. 137a, 145a). No toxic materials were used in the buffing operations (R. 366a,

439a), and Mr. Fredericks, the industrial health expert witness for the Board, testified without contradiction that even if the dust exhaust system had not been operating at all, the resulting dust conditions would not place the health of the buffers in any immediate danger, and would cause nothing more than minor irritations or discomfort, and that only prolonged exposure to such conditions over a period of years would be detrimental to health of the workers (R. 289a, 292a, 458a).

Mr. Fredericks also testified that exposure of workers to heat conditions of 110 degrees would subject them to danger of heat disease within a matter of one to three hours (R. 296a-306a) and that if the petitioner's dust exhaust system had been operating at full efficiency it would have had the incidental effect of drawing air into the buffing room through any openings (R. 278a) and, assuming that it would bring in 13,500 cubic feet per minute of 96 degree outdoor air the temperature in the buffing room would not have been above 100 degrees, but that if there were large openings into other portions of the plant in which were located hot plating tanks and die cast furnaces, then his answer would be different and he could not forecast the result, but that air drawn from the plating room into which the buffing room opened could reasonably be expected to increase its temperature rather than decrease it (R. 307a, 312a-316a).

Mr. Fredericks was not informed that, during the hour and three quarters that the buffers worked on the afternoon shift on August 31, 1953), they admittedly were at liberty to and did go outdoors to refresh themselves (R. 327a, 338a-339a), nor was he informed, as testified by Mr. Morley without contradiction, that during the afternoon of August 31 the temperature both inside and outside the plant had noticeably decreased and at the time of the walk-

out the temperature inside the plant including the buffing room had fallen 18 to 20 degrees (R. 359a, 405a). The official weather bureau report showed a similar drop during the same period of time at the Detroit City Airport thirty miles southeast of Richmond (R. 361a, 456a).

The buffers not only admittedly did not inform management that they considered the conditions for work to be unhealthy or dangerous because of the heat in the buffing room or that they were refusing to work for this reason (R. 137a, 145a), but did not even claim at the trial that they considered the heat in the buffing room to be unhealthy or dangerous, their sole claim at the trial being that at some time after 3:30 P. M. the temperature in the buffing room reached 110 degrees (R. 118a) and that this together with the dust and lint made them uncomfortable (R. 189a).

There was no evidence offered as to whether any of the seventeen discharged buffers were or were not members of the union, with the exception of Mr. Harsch, the union president, and Mr. Muniz, a union steward (R. 183a, 233a), nor did anyone claim or assert that Mr. Morley or any of his supervisory personnel had ever evidenced any anti-union animus.

The discharge of the buffers was processed by the union and the company through the first four steps of the grievance procedure contained in the labor contract during which the union rejected the company's offer to reinstate the buffers without the back pay demanded by the union (R. 221a, 261a-263a). On September 18 a formal written grievance was filed by the union demanding the reinstatement of all the buffers with back pay, which was rejected by the company on the ground that the buffers were properly discharged under the contract for failure to do appointed work and failure to comply with agreed grievance procedure (R. 49a-50a, 209a, 213a-214a). The union did not elect to sub-

mit the matter to arbitration as provided in Step 5 of the grievance procedure (R. 219a, 258a-259a), but after the labor contract expired on September 25 demanded that the company settle the buffer grievance to the satisfaction of the union by collective bargaining or they would strike the plant (R. 249a). The company remained adamant in its position that if the union desired further consideration of that or any other grievance arising under the contract they should request arbitration and on September 30 a strike was called and eighty-six or approximately two-thirds of petitioner's employees walked out on strike (R. 214a, 249a, 461a).

One of the 86 strikers testified that he overheard Mr. Morley tell the strikers that "they were walking out of a job" (R. 176a) and on the following day, October 1, a letter was sent to the strikers asking them to return to work by October 5th or they would be considered to have quit and would be replaced (R. 39a), and shortly thereafter petitioner declined the union's request that petitioner pay out of its own pocket the premiums necessary to keep the group insurance of the striking employees alive and cancelled the insurance as required under the policy (R. 41a, 43a-44a, 106a-107a, 416a-419a).

At a negotiating meeting held on October 14 petitioner's attorney raised a question as to the status of the union and the striking employees (having in mind the right asserted in its letter of October 1 to replace those who remained on strike) but no satisfactory conclusions were reached and petitioner continued to negotiate with the union as the bargaining representative of its employees and at all times has been willing to negotiate with it on the terms of a new contract. The union continued to refuse to negotiate with petitioner regarding the terms of a new contract and the termination of the strike unless petitioner would

also agree to negotiate regarding a number of grievances, including the discharge of the buffers, and when the petitioner refused to recede from its position that it was not required to negotiate regarding grievances subject to settlement under the grievance and arbitration provisions of the contract, further negotiations broke down (R. 251a-253a, 261a, 470a-471a, 476a).

While the strike was in progress a great many of the strikers were replaced by new employees or their jobs eliminated by changes in operations (R. 47a-48a, 428a).

Four of the strikers testified that while the strike was in progress they were refused reinstatement to their jobs by petitioner but there was no evidence offered that their jobs had not been filled and three of the offers were conditioned upon the ending of the strike and picketing (R. 242a, 342a-343a, 396a-397a), and when the strike was officially called off by the union on June 12, 1954, and an unconditional offer to return to work made on behalf of the strikers all those who desired to return and whose jobs had not been filled by replacements or eliminated by changes in operations were reinstated (R. 45a-48a, 60a-61a, 395a-396a, 428a).

The decisions of the Trial Examiner, the Board and the Court of Appeals. The petitioner was charged with committing three unfair labor practices in discharging the buffers on August 31 and insisting that the matter be handled as a grievance under the collective bargaining contract (R. 9a, 23a-25a).

The first was that the buffers were engaged in a protected concerted activity under Section 7 of the Act and therefore their discharge was an unfair labor practice under Section 8 (a) (1); the second was that their discharge was discriminatory in violation of Section 8 (a) (3); and the third was that by insisting that the matter be handled as a grievance

the petitioner was refusing to bargain in violation of Section 8 (a) (5).

As to the first and second charges the Court of Appeals affirmed the decision of the Trial Examiner and Board that inasmuch as Section 502 of the Act gave the buffers the right to stop work if they believed in good faith, even though mistakenly, that conditions for work were abnormally dangerous their work stoppage, even though not a strike, was a protected activity under Section 7 and their discharge was an unfair labor practice under Sections 8 (a) (1) and (3) entitling them to be reinstated with back pay and that it was immaterial and no defense that they did not inform the petitioner that they were stopping work because of such a belief even though they had agreed through collective bargaining to handle all grievances pertaining to working conditions as well as discharges through the grievance and arbitration procedure provided in the contract without stopping work (App. A, *infra*, 6a-9a; R. 452a-460a, 477a-478a, 509a).

As to the third charge above referred to the Court of Appeals, reversing the Board and affirming the trial examiner, held that the discharge of the buffers was a grievance to be settled through the grievance and arbitration procedure agreed upon in the collective bargaining agreement even after the expiration thereof and therefore petitioner had not violated Section 8 (a) (5) of the Act on October 14 by refusing to bargain thereon with the union. (App. A, *infra*, p. 9a; R. 467a-477a, 504a-506a).

In spite of this holding the Court of Appeals affirmed without discussion the finding of the Trial Examiner and the Board that the strike of September 30 was an unfair labor practice strike because the discharge of the buffers was one of the causal factors (App. A, *infra*, p. 10a; R. 460a, 466a, 500a-501a). This holding is determinative of

the remaining charges all of which involved conduct which would be legal and proper if the strike was an economic strike in which petitioner would have the right to replace striking employees.

The Court of Appeals affirmed without discussion the decision of the Trial Examiner and the Board that the petitioner violated Section 8 (a) (1) and (3) of the Act by threatening to replace the strikers if they walked out, by notifying them that they would be replaced if they did not return by October 5, by refusing to reinstate those who applied for reinstatement without regard to their previous replacement during the strike, and by refusing to reinstate replaced strikers at the conclusion of the strike, and petitioner was ordered to reinstate all strikers with back pay from the time they applied for reinstatement without regard to the fact that they had been replaced (App. A, *infra*, p. 4a, 10a; R. 460a-466a, 478a-479a, 499a-502a, 509a).

It was also charged that petitioner violated Section 8 (a) (5) of the Act on October 14 by questioning the union's status as representative of the striking employees many of whom were being replaced. The Trial Examiner held there was no violation because petitioner at all times remained willing to negotiate regarding a new contract and that it was the union which refused to do so (R. 476a-477a). The Board reversed the Trial Examiner and the Court of Appeals affirmed the Board without comment (App. A, *infra*, 10a; R. 506a-507a). As this charge also involved the petitioner's right to replace strikers it, like all the other findings, is dependent upon a determination of the questions involved in this appeal and in particular whether the strike of September 30 was an economic strike in which the strikers may be replaced or an unfair labor practice strike in which they may not be replaced.

The jurisdiction of the Board to entertair the unfair practice charges rests upon the proven and conceded engagement of petitioner in interstate commerce.

REASONS FOR GRANTING THE WRIT

This case presents substantial questions of wide public importance and great practical interest to both employers and employees in the field of collective bargaining and labor relations under the Labor Management Relations Act—1947 and the lower court's decision is in conflict with decisions of this Court and of Courts of Appeals.

A. As to the Section 502 Question

The decision of the Court below is based primarily upon a novel interpretation of the intent and meaning of a heretofore obscure clause in Section 502 of the Act which has never before been interpreted by either the Board or the Courts to have the intent and meaning given to it by the decision in this case which is in direct conflict with three basic principles pertaining to the rights and obligations of employers and employees under the Act which have heretofore been universally recognized and enforced by both the Board and the Courts and also with specific decisions of other Courts of Appeals as well as this Court.

The clause in question provides that "the quitting of labor by an employee or employees in good faith because of abnormally dangerous conditions for work at the place of employment of such employee or employees [shall not] be deemed a strike under this Act" (App. C, *infra*, p. 16a).

1. The decision in the Court below holds that under this clause employees are engaged in an activity pro-

tected by Section 7 of the Act if they *stop work without striking to enforce their demands pertaining to conditions of work* which they believe to be dangerous but which are not believed to be dangerous by management. This holding is not only in conflict with the well established principle that an attempt on the part of employees to remain at work on their own terms and conditions or while guilty of insubordination is not the kind of activity which is protected under Section 7 of the Act and they may properly be discharged for cause,[6] but is also in direct conflict with the decision of the Court of Appeals for the Seventh Circuit in *National Labor Relations Board v. Kohler Company*, 220 F. 2d 3, 10, which involved the discharge of twelve employees who walked out without striking in protest against the shutting off of fans installed for their protection against the excessive heat from the furnaces in the enameling department which they claimed resulted in abnormally dangerous conditions for work and which did in fact cause a number of employees to become ill. Both the Board and the Court of Appeals in the *Kohler* case concluded, in contrast with the holding in the case at bar on indistinguishable facts, that "the men could not insist on remaining at work on their own terms and conditions" and therefore they were not engaging in a protected activity and they were properly discharged.

The suggestion in the opinion of the Court below that in the *Kohler* case Section 502 was not relied upon or construed and is distinguishable on the facts is, we submit, erroneous. The *Kohler* case was actually a stronger case on the facts than the case at bar for claiming that their

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[6] *N. L. R. B. v. Local Union No. 1229*, 346 U. S. 464; *International Union, UAW, v. Wisconsin Employment Relations Board*, 336 U. S. 245; *Home Beneficial Life Insurance Co. v. N. L. R. B.*, 159 F. 2d 280, cert. denied 332 U. S. 758; *N. L. R. B. v. Montgomery Ward & Co.*, 157 F. 2d 486; *C. G. Conn, Ltd. v. N. L. R. B.*, 108 F. 2d 390.

work stoppage was protected under Section 502 for in that case the employees not only informed management that they considered the conditions of work to be dangerous (which they did not do in the case at bar), but a number of them, including those that were discharged, actually became ill as a result of the excessive heat and received medical attention. As to the suggestion that Section 502 was not relied upon or construed the fact is that not only did the Board itself reject the discharged enamelers' contention that they were protected in their walkout under Section 502 of the Act as "lacking in merit," but on their appeal to Court of Appeals for the Seventh Circuit the principal argument in their brief was entitled "The Action of the Petitioners is Protected by Section 502 Title V of the National Labor Relations Act" and the General Counsel for the National Labor Relations Board filed his brief in opposition and, without disputing the fact that the enamelers walked out because of abnormally dangerous conditions, argued that their conduct derived no protection from Section 502, that Section 502 was not intended to have any bearing on Section 7, and that "the employees' argument would logically lead to the conclusion that every concerted quitting of labor in the circumstances provided in Section 502 would be protected, regardless of the means through which it is effectuated." In holding as it did the Court of Appeals for the Seventh Circuit obviously upheld the construction given to Section 502 by the Board and its General Counsel which is precisely the opposite of the position taken by the Board and its General Counsel in the case at bar.

2. The decision of the Court below also holds that under Section 502 of the Act employees are engaged in a protected activity if they stop work to enforce their demands pertaining to conditions of work which they be-

lieve to be dangerous but which are not believed to be dangerous by management *even though they have entered into a collective bargaining agreement containing a covenant to settle without work stoppage or lockout all disputes concerning working conditions under the agreed grievance procedure* and also providing that failure to do appointed work or failure to comply with the agreed grievance procedure shall be a sufficient cause for discharge. This holding is not only in conflict with the well established principle that employees through collective bargaining may legally surrender their right to engage in activities protected by the Act and in fact are encouraged to incorporate in such contracts procedures for the settlement of disputes arising thereunder concerning such matters as conditions of work, and work stoppages in violation of such agreements are not protected activities,[7] but is also in direct conflict with the decision of the Court of Appeals for the Fifth Circuit in *National Labor Relations Board v. American Manufacturing Company of Texas*, 203 F. 2d 212, which involved the discharge of twelve foundry coremakers who complained that the operation of rattlers[8] while they were at work in the immediate area[9] created dangerous conditions for work because of the flying dust which was injurious to their health and because the noise was such as to prevent them from hearing warning

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[7] *Mastro Plastics Corp. v. N. L. R. B.*, 350 U. S. 270, 281; *N. L. R. B. v. Rockaway News Co.*, 345 U. S. 71; *N. L. R. B. v. Sands Manufacturing Co.*, 306 U. S. 332.

[8] "Rattlers" are revolving vessels in which metal castings are placed and rotated so as to smooth their surfaces and remove sand.

[9] They had previously been operated only during the other shifts when there were no employees in that area.

signals on the overhead crane.[10] Their labor contract contained a provision similar to paragraph 54 in the case at bar (R. 524a) requiring the employer to maintain healthful working conditions ad safety devices and also required complaints regarding such matters to be investigated promptly and corrective measures taken within a reasonable time. (In the case at bar Step 3 of the grievance procedure allows the company 24 hours.) The superintendent to whom the complaint was made promised to investigate but the rattlers continued to operate for the balance of the shift. When they were again placed in operation the following day the twelve coremakers stopped work and informed the management that they would not work with the rattlers running, whereupon they were ordered to either return to work or be discharged. Twelve of the coremakers left and were discharged and the following day the entire plant struck in protest. The twelve coremakers and forty of the strikers were replaced by new employees and denied reinstatement.

Just as in the case at bar, the controlling issue was whether the discharge of the twelve buffers was a concerted activity protected under the Act. The Court of Appeals, reversing the Board, found that it was not and consequently the resulting strike was an economic strike rather than an unfair labor practice strike, and the discharged coremakers and the replaced strikers were not entitled to reinstatement or back pay as ordered by the Board.

The basis of the Court's ruling was that under the labor contract the employer was entitled to a reasonable time to investigate and correct the grievance and take

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[10] The hazards involved are set forth in greater detail in the Board decision at 98 N. L .R .B. 226.

corrective measures, and as the action of the coremakers in stopping work was inconsistent with this agreement it was not protected activity under the Act. This is also a stronger case for protection under Section 502 than the case at bar for just as in the *Kohler* case the employer was clearly informed that the employees were stopping work because they believed the conditions for work were abnormally dangerous whereas they did not so inform the petitioner in the case at bar.

3. The decision of the Court below also holds that under Section 502 of the Act employees are engaged in a protected activity if they stop work to enforce their demands pertaining to conditions of work which are not believed by the employer to be dangerous, but which are believed by the employees to be dangerous *even though they do not inform their employer that they have that belief or are stopping work for that reason*, and having been discharged are entitled to reinstatement and back pay.

This holding is in direct conflict with numerous applicable decisions of this and other Courts of which the best known and most often cited is *National Labor Relations Board v. Jones & Laughlin Steel Corp.*, 301 U. S. 1, in which the Court at pages 45-46 set forth a principle which has been cited and followed on numerous occasions:

> "The Act does not interfere with the normal exercise of the right of the employer to select its employees or discharge them. The employer may not, under cover of right, intimidate or coerce its employees with respect to their right to self organization and representation, and, on the other hand, the Board is not entitled to make its authority a pretext for interference with the right of discharge when that right is exercised for other reasons than intimidation and coercion. The true purpose is the subject of investigation with full opportunity to show the facts."

In *National Labor Relations Board v. Stafford*, 206 F. 2d 19, the Court of Appeals for the Eighth Circuit said at page 22:

> "The fact in issue is the intent, motive or reason in the respondent's mind for the discharge of the complainants."

Even if Section 502 of the Act is construed to mean that employees are engaged in a protected activity if they stop work in the belief that conditions for work are dangerous, how would an employer, who did not himself believe the conditions to be dangerous, know that they were engaging in a protected activity if they did not inform him that they stopped work because of such a belief? So far as the employer is concerned they would simply be refusing to work and would be subject to discharge for cause.

Congress itself has attempted to protect the employer in such a situation by providing in Section 10 (c) of the Act that "No order of the Board shall require the reinstatement of any individual as an employee who has been suspended or discharged, or the payment to him of any back pay, if such individual was suspended or discharged for cause."

The holding in the case at bar is in direct violation of this clause for, if petitioner was not informed and did not know that the buffers were refusing to work for any reason that would make their conduct protected under the Act, then the refusal of the buffers to continue working is in itself proper cause for discharge.

The construction given to the intent and meaning of Section 502 of the Act by the decision of the Court below is not only in direct conflict with the decisions of other Courts of Appeals and of this Court as above set forth

but constitutes a serious departure from the recognized rules and principles pertaining to the collective bargaining relationship under the Act and the rights and obligations thereunder of both employers and employees which have been uniformly recognized by the Courts.

B. As to the "Unfair Labor Practice Strike" Question

The decision of the Court below makes two holdings which are mutually untenable and completely inconsistent as a matter of law. The strike of September 30 was called by the union for the sole purpose of enforcing its demand that the petitioner settle a number of grievances, including the grievance concerning the discharge of the buffers, which arose under the contract by collective bargaining and as a part of the negotiations for a new contract rather than in accordance with the grievance and arbitration procedure agreed upon in the contract which had expired (R. 249a).

The Court of Appeals, reversing the Board, held that such grievance should properly be handled and settled under the grievance procedure and that the petitioner had no obligation to bargain on such matters (App. A, *infra*, p. 9a).

However the Court below at the same time affirmed without comment the Board's ruling that the strike of September 30 was an unfair labor practice strike (App. A, *infra*, p. 10a). Inasmuch as the only basis for the Board's holding that the strike was an unfair labor practice strike rather than an economic strike was its ruling that the strike was in part caused by petitioner's refusal to settle the pending grievances by bargain which the Board had found to be an unfair labor practice on the part of the petitioner.

The Court of Appeals having now ruled that this refusal was not an unfair labor practice there is no longer any basis for holding that the strike, which was called to enforce that illegal demand, is an unfair labor practice strike for the only remaining issues which the strike was called to settle were economic.

To say that petitioner is not guilty of an unfair labor practice in refusing to submit to the union's demand that it settle past grievances by bargaining but that a strike called to enforce that illegal demand is an unfair labor practice strike is a legal inconsistency.

We therefore submit that the holding of the lower Court that the strike of September 30 is an unfair labor practice strike is in direct conflict with its own holding in this case and also with the decisions of this Court holding that strikes which are not caused by unfair labor practices are not unfair labor practice strikes of which one is *National Labor Relations Board v. Mackay Radio & Telegraph Co.*, 304 U. S. 333.

It is submitted that this question presents not only an issue of substantial importance in the administration of the Labor Management Relations Act—1947 but the conflict above set forth should be resolved .

CONCLUSION

The processing of raw materials and the use of machinery in industry inherently involve some exposure of workers to dangers of which dust and heat are two of the most common. The lessening of such dangers by protective devices are the constant concern of management, labor and the governing authorities, but it is inevitable that disputes will arise concerning the efficiency of such devices and the existence of such conditions. The Federal Government has encouraged management and labor to agree in advance to settle such disputes by orderly procedures without disrupting operations. If workers can ignore such agreements and refuse to continue working, as the decision in this case holds, on the basis of a unilateral determination, not concurred in by management, that conditions for work are dangerous or that the safety devices provided are inadequate or inefficient, then it would be fruitless to provide for the orderly handling of such disputes through prescribed grievance procedures and there would be no inducement for management to incorporate such procedures in their collective bargaining agreements.

If, moreover, employees could leave their jobs at any time in protest against working conditions but without even informing management that they believed such conditions to be dangerous and be protected against discharge for insubordination and recover all wages lost if they at some later date asserted that they did believe the conditions to be abnormally dangerous at the time they walked out and were discharged, it would not only be impossible for employers to enforce normal discipline, but would, for all practical purposes, destroy the right of management to discharge employees for cause and put the

employer at the mercy of the discharged employees who could regain their jobs and subject their employer to the frightful penalty of reimbursing them for all lost wages by the mere expedient of asserting that when they walked out they did believe that the conditions for work were dangerous. It is obvious that an authoritative and final answer to these questions is of the most vital concern to every employer and employee who are attempting to work within the framework of the Labor Management Relations Act and who must continually make decisions which are dependent on that answer.

It is respectfully submitted that the holding below on the above questions is not only in direct conflict with decisions of this Court and of other Courts of Appeals but also that the implications of the Court's holding are so far reaching and affect so many persons and involve such basic features of Federal jurisprudence that review by this Court is warranted and this petition for certiorari should be granted.

JOHN F. LANGS,
Attorney for the Petitioner,
Knight Morley Corporation.

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LANGS, MOLYNEAUX & ARMSTRONG,
Of Counsel.

May, 1958.

APPENDIX A

No. 13116

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

National Labor Relations Board,
Petitioner,
v.
Knight Morley Corporation,
Respondent.

Decided December 18, 1957
Rehearing Denied February 13, 1958

Before SIMONS, Chief Judge, and ALLEN and MCALLISTER, Circuit Judges.

ALLEN, Circuit Judge. This case arises on petition for enforcement of a decision and order of the National Labor Relations Board which held that respondent had violated Section 8(a)(1)(3) and (5) of the Labor Management Relations Act, 1947, 29 U. S. C., Section 141 et seq., and ordered reinstatement with back pay of certain employees whom it found to have been improperly discharged.

While the material evidence is in sharp controversy, the trial examiner and the Board found, based upon substantial testimony, the following facts:

Respondent operates a manufacturing plant at Richmond, Mich., engaged in the production of rear view mirrors and other automobile accessories. Its bargaining contract with the union, CIO, contained a no-strike clause. Under Mich. Stat. Ann., Sections 17.26 and 17.36 to 17.39, respondent was required to provide in its buffing room exhaust fans for the purpose of carrying off dust from emery wheels and grinders and dust-creating machinery. Sections 17.36 and

17.37 read together require that blowers and hoods be provided to protect the persons using buffing wheels from dust produced thereby and to catch and dispose of the dust thrown off by centrifugal force.

The initial difficulty in the immediate case arose out of the breakdown of respondent's blower system in its buffing room. Beginning Friday, August 21, 1953, the blower, which when in operation properly sucked up much of the dirt, dust, lint and abrasives thrown off in the buffing process, was out of order on various occasions. Serious trouble arose on August 28 when a fire destroyed the switchbox which controlled the blower. On Saturday, August 29, a new switchbox was installed but in this operation the wires of the motor were reversed. This caused the fan to run in reverse so that there was not enough suction in the blower system to draw off the waste material resulting from the polishing and buffing. On Monday, August 31, because of this situation, the morning shift of buffers was sent home after two hours work. The blower pipes were immediately cleaned, but in the afternoon of August 31 the blower still blew dirt, grit and abrasives into the men's faces, irritating eyes, ears and throats. On this day the temperature was from 96° to 98° in the shade and the atmosphere was very humid. A thermometer inside the buffing room showed the temperature there to be 110°. The buffers complained through their union steward and the union president to their foreman and to management. Respondent's president, Morley, made a cursory examination, putting his hand near the wheels of some of the buffing machines. He testified that the blower sucked in smoke from his cigar. Morley concluded that the blower was operating properly and rejected a suggestion from an experienced employee that the wires should be reversed. It was shown by the great weight of the testimony that the blower system on this day did not dispose of much of the dirt. The buffers, through their union steward and president, asked permission to stop working, but were told that they must continue and that anyone who left the plant would be discharged. All 17 of the afternoon buffers walked out of the plant at 5:15 p. m. Several of them testified at the hearing that they believed

it would be injurious to their health to work under the conditions of the heat and dust.

On the morning of September 1 there was no improvement in the operation and the rest of the men threatened to leave if the blower was not fixed. One buffer, Herbert Fox, was told to quit if he wanted to lose his job and he immediately quit. Thereafter Morley had the wires changed to the proper position. The blower then operated normally. When the afternoon buffers returned to work September 1 they learned that they had been discharged.

At the time the union was in process of negotiating a new contract with respondent, the original contract being due to expire on September 25, 1953. The union protested discharge of the 17 buffers and, in accordance with its collective bargaining contract which established a detailed grievance procedure, it submitted a formal written grievance with reference to the matter. As to this grievance, the first four steps of the grievance procedure were followed by the parties, but neither party receded from its position, respondent asserting that the buffers had been discharged for violation of proper management orders. Under step 5 of the grievance procedure it was optional with the parties to proceed to arbitrate. Neither party pursued arbitration to settlement of the particular controversy. Upon the ground that the grievance procedure should have been followed to its ultimate conclusion, respondent refused to bargain on matters relating to the buffers' discharge in connection with negotiations for a new collective bargaining contract.

No meeting was held with respondent after September 25 and on September 30 two-thirds of the employees walked out on strike, although Morley sent them word and also told them personally that they would be discharged if they ceased work. Respondent then notified all strikers to return to the plant by October 5 and, as to those who did not return, cancelled group insurance and treated their employment as terminated.

The Board found that the buffers quit work in good faith because of abnormally dangerous working conditions and that respondent violated Section 8(a)(1) and (3) of the Act in discharging them. It decided that in spite of the no-strike provision of the bargaining contract the cessation of work by the 17 buffers was protected under Section 502 of the Labor Management Relations Act of 1947, 29 U. S. C., Section 143, the pertinent portion of which provides that "the quitting of labor by an employee or employees in good faith because of abnormally dangerous conditions for work at the place of employment of such employee or employees" shall not be "deemed a strike under this Act." The Board also decided that respondent violated the statute by discharging 86 other employees who struck in protest against respondent's unfair labor practice; in dismissing the buffers and in refusing to reinstate certain employees who applied for reinstatement; and by threatening to discharge its employees if they went out on strike. Lastly the Board found that respondent violated Section 8(a)(1) and (5) of the Act by refusing to bargain with its employees' union representative in regard to the discharged buffers' grievance, and by insisting that any new contract apply only to employees who had not struck.

We deem it unnecessary to discuss every point raised by astute counsel for respondent. The contention that the Board improperly found that respondent, in violation of Section 8(a)(1) of the Act, threatened to discharge several employees if they joined the strike of September 30, was raised neither before the trial examiner had issued his intermediate order nor before the Board and therefore we do not consider it. Section 10(e). Cf. *Federal Power Commission v. Colorado Interstate Gas Company*, 348 U. S. 492, 497-502; *National Labor Relations Board v. Vulcan Forging Company*, 188 Fed. (2d) 927, 929-30 (C. A. 6).

The Board's decision depends largely upon questions of fact as to which it made findings which are vigorously attacked by respondent. The findings are sustained by substantial evidence upon the record considered as a whole and in general the Board must be sustained.

Respondent contends that the discharge of the buffers held to be wrongful cannot be considered because respondent had no notice until the filing of the amended complaint on July 30, 1954, of the charge that the buffers' cessation of work on August 31, 1953, was protected under Section 502 because the 17 buffers in good faith believed that conditions in their workroom were abnormally dangerous. The charge filed October 14, 1953, complained that on Monday, August 31, respondent discharged its employees in the buffing room because of their activities "in attempting to obtain correction of a faulty blower system." The amended charge filed December 11, 1953, set up that respondent, on or about Monday, August 31, 1953, discharged "all its employees in the buffing room because of their concerted activities in attempting to obtain correction of a faulty blower system." Both charges were filed within the six-month period specified in 29 U. S. C. Section 160(b).

The purpose of a charge is to set in motion the machinery of an inquiry. *National Labor Relations Board v. Westex Boot & Shoe Co.*, 190 Fed. (2d) 12, 13 (C. A. 5), *National Labor Relations Board v. General Shoe Corporation*, 192 Fed. (2d) 504, 505 (C. A. 6). The charge is not a pleading. *National Labor Relations Board v. Indiana & Michigan Electric Co.*, 318 U. S. 9; *National Labor Relations Board v. General Shoe Corporation, supra*, 505; *Kansas Milling Co. v. National Labor Relations Board*, 185 Fed. (2d) 413, 415 (C. A. 10). The strictness of formal pleadings should not be required therein. *Kansas Milling Co. v. National Labor Relations Board, supra; National Labor Relations Board v. Kingston Cake Co., Inc.*, 191 Fed. (2d) 563, 567 (C. A. 3).

Obviously both charges related to the entire transaction with reference to the faulty blower and the conditions which it produced in the buffing room, including the cessation of work by the 17 buffers. *National Labor Relations Board v. Kohler Company*, 220 Fed. (2d) 3, 7 (C. A. 7). Under the Regulations, Section 102.14, the union was required to serve respondent with a copy of the charges and the regional director "as a matter of course" was instructed to mail copies to respondent. Under Section 101.4 respondent

was "asked to submit a written statement of his position in respect to the allegations" in the charge. As respondent does not deny having received a copy of the charges, under the established presumption as to regularity of proceedings required by statute, we assume that respondent was properly served with the charge and amended charge. It certainly had notice of the union's complaint as to conditions in the buffing room and, of course, had notice of the application of Section 502 to this situation.

Respondent also urges that there was no competent testimony as to physical conditions inside the buffing room on the afternoon of August 31. However, the heat was shown to be 110° by thermometer, the humidity was stated to be great, and it was shown that the humidity was increased by the failure of the blowers to change the air. It was competent for the buffers themselves to testify to these physical conditions and to the lack of evaporation in the room. Laymen may testify as to physical conditions which they themselves have observed. *Robert T. Lincodn v. Central Vermont Railway Company,* 82 Vt. 187. This rule applies to statements as to temperature, the state of the weather, and dampness. *Leopold v. Van Kirk,* 29 Wis. 548. *Curtis v. The Chicago & Northwestern Railway Company,* 18 Wis. 327.

Another point of attack was the claim that the record presented no competent testimony as to the fact found by the Board that conditions in the buffing room were "abnormally dangerous." These conditions were testified to by Dr. William Fredrick, an industrial health expert, who had made this his life work since he graduated in 1936 from the University of Michigan with a Doctor of Science degree. Dr. Fredrick was highly qualified, having been a past officer of the American Industrial Hygiene Association, a fellow of the American Public Health Association and past president of its Industrial Hygiene section, a member of the American Chemical Society, the American Association for the Advancement of Science, the Association of Analytical Chemists, and the Engineering Society of Detroit.

Respondent contends that only a physician could rightly testify with reference to the danger to health arising from the failure of the blower to operate under the conditions presented. No decision is cited in support of this contention.

Industrial hygiene is the science and art of insuring healthful conditions of work, and the prevention of occupational diseases or injury to health arising out of methods of work. While perhaps only a physician could testify as to diagnosis of disease, lay witnesses may testify as to the existence of disease, or as to conditions producing disease which fall within their immediate knowledge and experience.

The possibility that actual disease may be caused by conditions in plant and in industrial operations is emphasized in this case by the fact that the Michigan statute requires the installation of the blower involved here. This is due to the well-known tendency of grit and abrasives such as Tripoli (used in respondent's plant) to cause diseases of the lungs. Dr. Frederick's testimony was rightly admitted.

Dr. Frederick testified in substance that under the conditions of heat and excessive humidity described as existing in the buffing room, combined with faliure of the blower, working conditions were dangerous to health. He stated that with the wires on the blower reversed it was reasonable to assume that the blower's efficiency was decreased from 70% to 80%. He said he had personally known of such cases in which the efficiency of the blower went to zero. Assuming such a reduction in blower efficiency, it was shown that air changes in the buffing room would be reduced from about 36 per hour to between 6 and 7 per hour. Due to the reversal of the blower fan, Dr. Fredrick stated, the suction would be reduced to practically zero at the buffer hoods. Heat generated inside the buffing room by numerous motors substantially increased the temperature. Under such circumstances Dr. Fredrick expressed the opinion that employees working in the buffing room might within two or three hours experience acute effects of some form of heat disease, such as heat prostration or heat stroke, and that even more serious results might follow if work were con-

tinued. It was clearly shown that the failure of the blower directly affected not only the accumulation of dust, grit, and dangerous abrasives, but also the temperature and humidity in the buffing room. This was substantial testimony to the effect that the conditions might reasonably be considered "abnormally dangerous." Cf. *National Labor Relations Board v. Southern Silk Mills, Inc.*, 209 Fed. (2d) 155 (C. A. 6). As the men left the room after one hour and forty-five minutes of work, the fact that none of them collapsed is not decisive as to the physical conditions.

Respondent also urges that the Board's decision on this point was erroneous because under the Michigan statute the blower was not required to effect ventilation. It is true that the statute does not mention general ventilation and cooling. However, the requirement of a blower system includes whatever functions the blower, effectively operating, will perform, such as the reduction of humidity by changing the air. It would be a strange doctrine to hold that under Section 502 employees in appraising the abnormal danger of working conditions were limited to consider only the purposes of safety equipment expressly described in the statute. The heat and humidity, as well as the accumulation of dust, grit and abrasives caused by the failure of the statutory mechanical devices, joined in creating the abnormal danger. The fact that all 17 employees walked out in face of Morley's statement that the blower was operating properly is evidence that the action was "concerted" and the Board was entitled to find that it was taken in good faith belief that the continuation of these conditions was and would be abnormally dangerous.

Moreover, it was not error for the Board to decide that under these circumstances it was immaterial that the bargaining contract contained a no-strike clause. Since Section 502 provides that walking out under a good faith belief of abnormally dangerous conditions does not constitute a strike, the no-strike provision was not applicable. *National Labor Relations Board v. Kohler Company, supra*, does not require a different conclusion. The cases are distinguishable on the facts. Moreover, in the *Kohler* case Section 502 was not relied on nor construed. That section ex-

pressly limits the right of management to require continuance of work under what the employees in good faith believe to be "abnormally dangerous" conditions. The refusal to work here came squarely within the terms of the statute and did not constitute, as held in the *Kohler* case, *supra*, an unlawful insistence on remaining at work on the men's own terms and conditions.

Respondent also attacks the Board's conclusion that respondent's insistence that the grievance concerning the buffer's discharge should be handled through grievance proceedings rather than as a part of the negotiation for a new contract violates Section 8(a)(5) and constitutes refusal to bargain. The trial examiner found to the contrary, basing his conclusion largely upon the decision of this court in *Timken Roller Bearing Company v. National Labor Relations Board*, 161 Fed. (2d) 949, 955. The Board endeavors to distinguish the instant case from the *Timken* case, *supra*, upon the ground that the grievance as to the buffers' discharge had not been disposed of when the contract expired. While there were some factual differences between the *Timken* case and the instant controversy, the grievance there involved, as here, had not been settled and, this court held, the employer's effort to channel the grievances into agreed grievance procedures was not a refusal to bargain. This court approved and follow that case in *National Labor Relations Board v. Standard Oil Company*, 196 Fed. (2d) 892, 895. Here, as there, the duty to bargain could be directed by the parties through contractual agreement and such a contract had been executed. See also *Textile Workers Union of America v. Lincoln Mills of Alabama*, 353 U. S. 448, in which the Supreme Court reversed a judgment of the Court of Appeals and affirmed a judgment of the District Court which held that, when a grievance arose from the operation of the collective bargaining agreement and while it was in effect, the expiration of the bargaining agreement did not relieve respondent of its contractual obligation to arbitrate. We think the Board erred in deciding that respondent violated Sections 8(a)(5) of the Act in dealing with the grievance.

However, this conclusion does not require that the order be modified, for the Board also found that respondent on October 14 refused to bargain with the union as the representative of the striking employees, in violation of Section 8(a)(5) of the Act. The strike of September 30 was clearly an unfair labor practice strike. The strikers retained their employee status and their bargaining representative was entitled to recognition in their behalf. *National Labor Relations Board v. Deena Artware, Inc.*, 198 Fed. (2d) 645, 651 (C. A. 6), certiorari denied 345 U. S. 906; *National Labor Relations Board v. Pecheur Lozenge Co., Inc.*, 209 Fed. (2d) 393, 403 (C. A. 2), certiorari denied 347 U. S. 953.

It is ordered that a decree shall issue enforcing the Board's order as prayed in the petition.

ON PETITION FOR REHEARING

PER CURIAM. The only point which requires discussion of the petition for rehearing is respondent's contention that it properly raised before the Trial Examiner the issue as to whether respondent, in violation of Section 8(a)(1) of the National Labor Relations Act, threatened to discharge several employees if they joined the strike. In our opinion we did not consider that issue for the reason that respondent, as shown by citations in the Board's reply brief and not answered by respondent, had failed to file exceptions to the Trial Examiner's findings concerning alleged threats made by Morley, respondent's president, or to the Examiner's conclusion that such threats violated the Act. The Board's reply brief was filed September 3, 1957, and respondent filed no answer thereto. The case was heard by this court October 22, 1957.

Respondent now asserts that it stated at the hearing before us that it took an exception to the finding of the Trial Examiner, quotes the particular exception and states that counsel for petitioner at the hearing agreed that its objection on this point was improper. The appendix contains no exceptions to the Trial Examiner's report, includ-

ing Exception No. 26 now relied on in respondent's petition for rehearing.

The danger of relying upon oral statements and upon claimed agreement with such oral statements, also orally stated, of which no memorandum is furnished the court is apparent.

The important question raised is whether the court has a right to rely upon the joint appendix filed in compliance with Rule 16 of the Revised Rules of this court effective May 1, 1956.

The purpose of the adoption of the rule as to the filing of appendices, whether separate or joint, is that litigants and counsel shall have the advantage of presenting a condensed record for the purpose of saving time and labor in preparation and the expense of printing voluminous transcripts of testimony. The court is entitled to rely upon the appendix as presented. The rules of this court are liberal with respect to the filing of unprinted portions of the record as part of the appendix, even after the printed appendix has been filed. Under Rule 16(6), either party may file typewritten copies of such portions of the record as he desires at any time prior to the call of the case for argument; and such typewritten copies shall be considered as a part of the appendix. In this case respondent had some seven weeks prior to the hearing in the court to file such typewritten addition to the appendix but took no action. The petition for rehearing on this point has no merit.

In any event certain statements of respondent's president made to two employees could properly be considered by the Examiner and the Board as threats constituting coercion. Since the Examiner and the Board so found, there was ample support of the conclusion that respondent violated Section 8(a)(1) of the Act.

All questions raised in the petition for rehearing have been considered. It is ordered that the petition be and it hereby is denied.

APPENDIX B

No. 13116

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

National Labor Relations Board,
— *Petitioner*,
v.
Knight Morley Corporation,
Respondent.

DECREE

(Filed December 18, 1957)

On petition to enforce an order of the National Labor Relations Board.

This cause came on to be heard on the transcript of the record from the National Labor Relations Board, and was argued by counsel.

On consideration whereof, it is now ordered, adjudged and decreed by this Court that the order of the National Labor Relations Board be enforced as prayed for in its petition.

ORDER DENYING PETITION FOR REHEARING

(Filed February 13, 1958)

The petition for rehearing is denied for the reasons stated in memorandum on petition for rehearing of even date herewith.

APPENDIX C

The relevant provisions of the Labor Management Relations Act, 1947 (29 U. S. C., Sec. 141 *et seq.*) are as follows:

TITLE I—AMENDMENT OF THE NATIONAL LABOR RELATIONS ACT

* * * * *

Rights of Employees

Sec. 7. Employees shall have the right to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection, and shall also have the right to refrain from any or all of such activities except to the extent that such right may be affected by an agreement requiring membership in a labor organization as a condition of employment as authorized in section 8 (a) (3).

Unfair Labor Practices

Sec. 8 (a). It shall be an unfair labor practice for an employer—

(1) to interfere with, restrain, or coerce employees in the exercise of the rights guaranteed in section 7;

* * * * *

(3) by discrimination in regard to hire or tenure of employment or any term or condition of employment to encourage or discourage membership in any labor organization: * * *

* * * * *

(5) to refuse to bargain collectively with the representatives of his employees, subject to the provisions of section 9 (a).

* * * * *

PREVENTION OF UNFAIR LABOR PRACTICES

* * * * *

Sec. 10 (c) * * * No order of the Board shall require the reinstatement of any individual as an employee who has been suspended or discharged, or the payment to him of any back pay, if such individual was suspended or discharged for cause. * * *

* * * * *

(e) The Board shall have power to petition any circuit court of appeals * * * for the enforcement of such order * * * No objection that has not been urged before the Board, its member, agent, or agency shall be considered by the Court * * *.

* * * * *

TITLE V.

* * * * *

SAVING PROVISION

Sec. 502. Nothing in this Act shall be construed to require an individual employee to render labor or service without his consent, nor shall anything in this Act be construed to make the quitting of his labor by an individual employee an illegal act; nor shall any court issue any process to compel the performance by an individual employee of such labor or service, without his consent; nor shall the quitting of labor by an employee or employees in good faith because of abnormally dangerous conditions for work at the place of employment of such employee or employees be deemed a strike under this Act.

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INDEX

	Page
Opinions below	1
Jurisdiction	1
Questions presented	2
Statute involved	2
Statement	2
A. The Board's findings of fact	2
B. The Board's decision and order	8
C. The decision of the court below	10
Argument	10
Conclusion	15

CASES: CITATIONS

Cusano v. *National Labor Relations Board*, 190 F. 2d 898	14
Gullett Gin Co. v. *National Labor Relations Board*, 179 F. 2d 499	11
Mastro Plastics Corp. v. *National Labor Relations Board*, 350 U.S. 270, 279	12
Modern Motors, Inc. v. *National Labor Relations Board*, 198 F. 2d 925	11
National Labor Relations Board v. *American Manufacturing Co.*, 203 F. 2d 212	12
National Labor Relations Board v. *J. I. Case Co.*, 198 F. 2d 919	11
National Labor Relations Board v. *Globe Wireless, Ltd.*, 193 F. 2d 748	14
National Labor Relations Board v. *Kennametal, Inc.*, 182 F. 2d 817	11
National Labor Relations Board v. *Kohler Co.*, 220 F. 2d 3	11, 12
National Labor Relations Board v. *McCatron*, 216 F. 2d 212, certiorari denied, 348 U.S. 943	14
National Labor Relations Board v. *Remington Rand, Inc.*, 130 F. 2d 919	14
National Labor Relations Board v. *U. S. Cold Storage Corp.*, 203 F. 2d 924, certiorari denied, 346 U.S. 818	14

STATUTES: Page

Labor Management Relations Act, 1947, Section 502, (61 Stat. 136) 9, 12
National Labor Relations Act, as amended (61 Stat. 136, 29 U. S. C., Sec. 151, *et seq.*) 2
Section 7 ..... 9, 11
Section 8(a)(1) 2, 9, 10
Section 8(a)(3) 2, 9
Section 8(a)(5) 2, 9, 10

In the Supreme Court of the United States

OCTOBER TERM, 1957

No. 1004

KNIGHT MORLEY CORPORATION, *Petitioner*

v.

NATIONAL LABOR RELATIONS BOARD

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Sixth Circuit

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BRIEF FOR THE NATIONAL LABOR RELATIONS BOARD IN OPPOSITION

OPINIONS BELOW

The opinion of the court below, together with its opinion on rehearing (Pet. App. A 1a-11a), is reported at 251 F. 2d 753. The findings of fact, conclusions of law, and order of the Board (R. 489a-516a, 430a-488a) are reported at 116 NLRB 140.[1]

JURISDICTION

The decree of the court below was entered on December 18, 1957 (Pet. App. B 13a). A petition for rehearing was denied on February 13, 1958 (*ibid.*). The petition for a writ of certiorari was filed on May 14,

[1] References designated "R" refer to the Joint Appendix to the briefs of the parties in the court below.

1958. The jurisdiction of this Court is invoked under 28 U.S.C. 1254(1).

QUESTIONS PRESENTED

1. Whether the Board properly found that petitioner violated Section 8(a)(1) and (3) of the National Labor Relations Act by discharging a group of employees who walked out because of abnormally dangerous working conditions.

2. Whether the court below properly upheld the Board's finding that a strike of petitioner's employees was caused by petitioner's unfair labor practices, even though the court set aside one of the unfair labor practice findings.

STATUTE INVOLVED

The relevant provisions of the National Labor Relations Act, as amended (61 Stat. 136, 29 U.S.C., Sec. 151, *et seq.*), are set forth in Appendix C of the petition (Pet. 15a-16a).

STATEMENT

A. The Board's findings of fact

In relevant part, the Board found that petitioner violated Section 8(a)(1) and (3) of the Act by discharging 17 buffing-room employees who engaged in a walkout because of abnormally dangerous working conditions; by discharging 86 other employees who struck in protest against the dismissal of the buffing-room employees and petitioner's other unfair labor practices; and by subsequently refusing to reinstate a number of the strikers upon application for employment. The Board also found that petitioner violated Section 8(a)(1) and (5) of the Act by refusing to

discuss and negotiate with the employees' bargaining representative in regard to the buffers' grievance concerning their discharge, and by insisting that any new contract apply only to employees who had not struck. The evidentiary facts underlying these findings are as follows:

1. The discharge of the buffers.

Petitioner manufactures automobile parts and accessories at its plant in Richmond, Michigan (R. 433a, 439a; 74a-75a). Its employees were represented by the UAW-CIO under a collective bargaining contract containing clauses banning strikes during the term of the contract and establishing a grievance procedure (R. 434a-438a; 520a-524a).

As part of its facilities, petitioner operates a buffing room in which the various parts produced by it are ground and buffed on large abrasive and polishing wheels (R. 439a; 52a-54a, 18a-81a, 152a-153a). These grinding and polishing operations create a considerable amount of grit, abrasive particles, dust, and lint. To carry off this dust and other matter, petitioner operates a blower system (R. 490a, 439a-440a; 82a-84a).

On Friday, August 28, 1953, the switch box controlling the blower was destroyed by fire. The afternoon shift remained idle while efforts were made to repair the blower. At 10:00 p.m., the blower still failing to operate, the men were sent home by the superintendent. This was customary whenever the blower failed to function (R. 490a, 440a; 93a, 115a, 189a-190a). A new switch box was installed on Saturday, August 29, but in the process the wires were reversed on the motor, causing the fan to run backwards (R. 490a; 97a-98a, 415a).

On Monday, August 31, the morning shift discovered that there was insufficient suction in the blower system to draw off the dirt, dust, and lint from the grinding and buffing operations. The particles flung from the wheels got into the buffers' noses and adhered to their arms and faces (R. 490a, 440a, 153a-154a, 163a, 170a, 225a, 226a, 333a). The men complained to their foreman and soon thereafter were sent home, except three who remained to clean out the blower (R. 490a, 440a-441a; 153a-154a, 162a-163a).

The cleaning of the blower failed to improve its performance. When the afternoon-shift buffers started their machines at 3:30 p.m., the dust, lint, dirt, and abrasives flung from the buffing wheels flew into the men's faces, irritating their throats and noses and making it difficult to breathe (R. 490a, 441a-442a, 458a, 108a, 111a-113a, 125a-126a, 134a-135a, 139a-140a, 184, 234a, 657, 660). This did not occur when the blower was functioning normally (R. 111a, 126a, 139a, 154a-155a, 164a, 184a, 226a). The weather at the beginning of the shift was hot and humid, registering 98 degrees in the shade outside (R. 490a, n.4, 457a; 125a, 138a). A thermometer in the buffing room showed 110 degrees that afternoon (R. 490a, 441a, 457a; 112a, 118a). The buffing room became fogged with lint and the men's arms and clothing became coated with dust (R. 490a, 458a; 112a, 138a, 184a). The buffers complained about the dust and the dirt to the chief steward and to the Union President (R. 443a-444a; 186a, 234a-236a). These complaints were taken up with management. The foreman checked the situation, as did the superintendent, and petitioner's president, Morley (R. 443a-444a; 234a-236a). After further investigation, Morley concluded that the blower was working satisfactorily and,

through the superintendent, ordered the men to keep on working under penalty of discharge (R. 444a, 90a-91a, 187a, 411a).

After discussing the matter among themselves, the men, fearing the consequences of continuing to work under such hazardous conditions, walked out of the plant at 5:15 p.m. (R. 491a, 442a-444a; 187a, 195a, 237a, 324a). Their testimony is uniformly to the effect that they believed it would be injurious to their health to remain at work (R. 491a, 442a; 324a, 116a, 142a, 129a-130a, 135a-136a, 188a-189a). They were all discharged when they reported for work the next afternoon (R. 491a, 445a; 100a).

Dust conditions were the same the next morning when the morning shift went to work. One buffer quit his job rather than work under such dusty conditions, fearing that he would contract "t.b." (R. 491a, 444a-445a, 459a; 177a, 330a). The others threatened to leave unless the blower were fixed (R. 177a). Finally, Morley directed that the wires on the motor be reversed as one of the buffers had suggested on the previous afternoon (R. 491a, 443a, 445a; 148a-149a, 415a). This was done late during the morning shift and it solved the problem completely (R. 491a, 445a; 148a-149a).

On the basis of expert testimony which it credited, the Board found that the effect of connecting the terminals on the blower motor in reverse was to cause the blower to revolve backwards at a 70 to 80 percent loss in general efficiency. Under such conditions, the effectiveness of the system in removing fine particles from the buffing room would be reduced to nearly zero (R. 491a-492a, 446a-447a; 286a-287a). Operating with this loss of efficiency, petitioner's blower system fell far short of meeting the safety standards set by Michigan

law or deemed adequate under present-day engineering standards as embodied in modern industrial codes (R. 35a-36a, 55a, 279a-286a). Continuing to work under the hot and humid conditions existing in the buffing room would cause severe physiological stress among the workers and would lead to heat prostration or cramps within one to three hours, and the workers so affected, if not given prompt and adequate medical care, might possibly die (R. 492a, 447a; 297a-303a, 308a). While exposure to the dust and other matter resulting from the polishing and buffing operations would not place the health of the worker in immediate danger, it might cause minor irritations of the nose and throat which would be uncomfortable but not disabling. Prolonged exposure to the dust and dirt and inhalation of the polishing compound over a period of time would, however, be seriously detrimental to the worker's health (R. 466a, 492a; 289a-293a).

2. The refusal to bargain and the discharge of the September 30 strikers.

Union representatives conferred with Morley on September 1 and 8 and sought to persuade him to reinstate the discharged buffers (R. 467a; 175a, 206a-207a, 412a-413a, 426a, 909a). On September 18 the Union submitted to petitioner a formal written grievance based on the discharge of the buffers (R. 468a; 49a, 209a, 223a). The parties discussed the grievance on September 14, 18, 21, 24, and 25, in the course of bargaining negotiations for a new labor contract, but reached no agreement regarding the buffers (R. 468a; 207a-215a). At the close of the September 25 meeting, petitioner announced it was withdrawing whatever proposals it had theretofore made for settling the various

grievances and that its duty to discuss the buffers' grievance further would end with the expiration of the contract at midnight that day. Petitioner thereafter refused to discuss the matter, and indicated that if the Union wanted to press the buffers' grievance further it should exhaust the procedure established in the expired contract rather than take it up as a part of the negotiations for a new contract (R. 502a-503a, 469a-471a; 243a, 247a-248a, 251a-253a).

At a meeting of the bargaining committee of the Union on September 29, the employee members of the committee urged the International Representative of the Union to seek an immediate meeting with respondent to bargain about all unresolved issues, stating that because of "the over-all situation" they could not assume responsibility for holding off strike action longer than the next morning. One of the factors in the employee unrest was petitioner's discharge of the 17 buffers (R. 499a; 248a-249a).

The next morning, September 30, no meeting with petitioner having taken place in the meantime, 86 employees, two-thirds of petitioner's working force, walked out on strike (R. 499a; 176a, 248a-249a). A few returned to work when Morley warned them that they would be discharged if they walked out (R. 501a, 461a; 176a).

By letter dated October 1, the next day, petitioner notified each of the strikers that the plant was operating as usual, and "in the event you do not report for work * * * by Monday, October 5, the Company will consider that you have quit your employment and you will be replaced by other or new employees" (R. 501a, 461a; 101a-103a, 346a-348a, 39a). On October 5, petitioner cancelled the group insurance of the strikers,

indicating on the notice to the insurance company that the strikers' employment was "terminated" as of that date (R. 501a-502a, 461a; 41a-44a).

On October 14, petitioner took the position, at the bargaining conference held that day, that it was not obliged to bargain regarding a contract covering the employees who had failed to respond to its letter of October 1 (notifying the strikers to return before October 5). Although the Union spokesman urged that the strike did not suspend petitioner's obligation to bargain and that any contract would be applicable to strikers as well as non-strikers, petitioner adhered to the position that any contract negotiated would apply only to those employees who had not struck (R. 502a-503a, 462a, 471a; 250a-252a).

By letter dated June 12, 1954, the Union notified petitioner that the strike was ended and requested reinstatement of all the strikers. Petitioner replied that there had been a great many "replacements," and it would only "give consideration" to the reinstatement of any strikers who had made individual applications for reinstatement (R. 499a; 45a-48a). Up to the date of the hearing before the Trial Examiner, on August 17, 1954, petitioner had reinstated only three of the former strikers (R. 500a; 387a-395a).

B. The Board's decision and order

In relevant part, the Board found that the working conditions in the buffing room on August 31, 1953, were abnormally dangerous, and that the 17 afternoon-shift buffers walked out because of their good-faith belief that such was the case. The Board found that in these circumstances the buffers, when they walked out, were engaged in protected concerted activity under Section

7 of the Act and that accordingly their dismissal was discriminatory and in violation of Section 8(a)(3) and (1) of the Act (R. 489a-499a). In reaching this conclusion, the Board held that Section 502 of the Labor Management Relations Act, 1947 was intended to protect the right of employees to quit their labor without penalty in order to protect their health and lives, and that such action is not in contravention of a no-strike provision in a collective bargaining agreement such as existed between petitioner and the Union (R. 497a-498a).

The Board further found that the strike of September 30, 1953, in which approximately two-thirds of petitioner's employees participated, was caused and prolonged in part by the discriminatory discharge of the buffers and by other unfair labor practices committed by petitioner (including petitioner's refusal to bargain with the Union concerning the buffers' grievance arising from their discharge), and that petitioner violated Section 8(a)(1) and (3) of the Act by discharging these strikers on October 5, 1953 (R. 499a-502a). Finally, the Board found that petitioner had violated Section 8(a)(1) and (5) of the Act by refusing to bargain in relation to the buffers' grievance after the expiration of the collective bargaining agreement, and further by refusing to bargain with the Union with respect to the striking employees (as evidenced by its insistence that any new contract would apply only to non-strikers and not to the strikers) (R. 502a-505a).

The Board's order requires petitioner to cease and desist from the unfair labor practices found (R. 508a-509a). Affirmatively, the order requires petitioner, upon request, to bargain collectively with the Union, to offer reinstatement to the 17 buffers and the

86 other employees who were discharged for striking in protest against petitioner's unfair labor practices, and to make whole all employees for their losses resulting from petitioner's discrimination against them (R. 508a-510a).

C. The decision of the court below

With one exception, the court below sustained the Board's unfair labor practice findings, and it enforced the Board's order in full (Pet. App. A 4a-10a). The exception relates to the Board's finding that petitioner violated Section 8(a)(5) and (1) of the Act by refusing to bargain with the Union concerning the buffers' grievance with respect to their discharge. The court was of the view that since the grievance arose during the life of the contract, which expired on September 25, the employer could properly insist that the matter be processed through the grievance procedure established by the contract even though the contract itself had expired. However, the court held, the rejection of the Board's finding in this respect did not require a modification of the Board's bargaining order since petitioner's further refusal to bargain with the Union on behalf of the striking employees was violative of the Act. Since these employees had struck in protest against petitioner's unfair labor practices, they "retained their employee status and their bargaining representative was entitled to recognition in their behalf" (Pet. App. A 9a-10a).

ARGUMENT

1. As the Board and the court below found, the buffers walked out of the plant on August 31 because of their good-faith belief that the heat and dust condi-

tions in the buffing room were abnormally dangerous. In essence, the walkout was in protest against conditions of employment; in the most literal sense, it constituted concerted activity for the purpose of mutual aid and protection within the meaning of Section 7 of the Act. Cf., *e.g.*, *National Labor Relations Board* v. *J. I. Case Co.*, 198 F. 2d 919, 921-922 (C.A. 8); *Modern Motors, Inc.* v. *National Labor Relations Board*, 198 F. 2d 925, 926 (C.A. 8); *National Labor Relations Board* v. *Kennametal, Inc.*, 182 F. 2d 817, 818-819 (C.A. 3); *Gullett Gin Co.* v. *National Labor Relations Board*, 179 F. 2d 499 (C.A. 5). It needs no argument that the discharge of employees based upon their participation in such activity normally constitutes a violation of the Act. *Ibid.* Petitioner's argument (Pet. 15-17) that the employees' action constituted a form of "insubordination" outside the protection of the Act is wholly wide of the mark and presents no substantial issue warranting further review by this court.

The ruling below on this aspect of the case does not, as petitioner asserts, conflict with *National Labor Relations Board* v. *Kohler Co.*, 220 F. 2d 3 (C.A. 7). There, the Seventh Circuit concluded that the quitting of work by 12 employees, allegedly because certain fans in the plant had been turned off, was not concerted activity within the meaning of the Act because some of these employees indicated that their purpose was to cease working "when they felt like it" and others testified that they left the plant because of "their personal decision" unrelated to any group activity. In these circumstances, the court concluded that the employees were not engaged in "concerted action for a change in . . . working conditions," but, rather, were insisting "on remaining at work on their own terms and condi-

tions" 220 F. 2d at p. 11. The intermittent and individual character of the work stoppages in that case serve to distinguish it from the instant case.

Petitioner further argues (Pet. 17-20) that the buffers' walkout was in violation of the collective bargaining agreement, which contained a no-strike provision and also established a procedure for the settlement of grievances. To begin with, it is unrealistic to suppose that the no-strike commitment in the contract and the grievance procedure, which is necessarily time-consuming, were intended to cover emergency situations, such as that presented here, when employees stop work because of abnormally dangerous conditions. Moreover, the provision against strikes and the related grievance procedure are to be read in the light of Section 502 of the Labor Management Relations Act. That section provides that the quitting of labor by employees in good faith because of abnormally dangerous conditions shall not be deemed a strike under the statute. This provision, as the Board explained in detail (R. 497a-498a), was obviously inserted to remove such quitting of work from the area of unlawful work stoppages and to safeguard the right of employees to quit their labor without penalty in order to protect their lives and their health. So viewed, as the court below concluded (Pet. App. A 8a), the work stoppage cannot be deemed a strike in breach of contractual commitments. Cf. *Mastro Plastics Corp.* v. *National Labor Relations Board*, 350 U.S. 270, 279-280. The Fifth Circuit's decision in *National Labor Relations Board* v. *American Manufacturing Co.*, 203 F. 2d 212, does not hold to the contrary, as petitioner asserts. In that case there was no "imminent" danger to the employees (203 F. 2d at 215, n. 5); the collective bargaining contract

provided that the employer would have a reasonable opportunity to correct dangerous conditions; and the employees' bargaining representative had reached an understanding with the employer for the correction of the grievance. The court concluded that in these circumstances the work stoppage was not caused by abnormally dangerous conditions and further that it was "inconsistent" with the understanding between the employer and the employees' representative and the contract provisions affording the employer a reasonable opportunity to take corrective steps. That is not this case.

Equally insubstantial is petitioner's further argument (Pet. 20-21) that the buffers failed to give notice that they were walking out because of abnormally dangerous conditions and that hence there is no basis for concluding that petitioner in discharging them sought to penalize them for engaging in a protected activity. The short answer is that, in the circumstances summarized above (pp. 4-5), petitioner could have had no doubt as to the cause of the walkout. Formal notice would have been superfluous.

2. Petitioner argues (Pet. 22-23) that the court below, having set aside the Board's finding that petitioner committed an unfair labor practice when it refused to discuss in the negotiations for a new contract the buffers' grievance concerning their discharge (*supra*, pp. 6-7, 10), could not consistently conclude that the strike of September 30 was caused by petitioner's unfair labor practices. The contention is based on the erroneous premise that the sole cause of the strike was petitioner's refusal to bargain concerning the buffers' discharge. But as the Board, with the approval of the court below, made clear (R. 500a-

501a), "the fact that the discharge of the buffers was discriminatory, and the fact that the strike of September 30 was caused at least in part by the discriminatory discharge of the buffers, are sufficient to support a finding that the strike was an unfair labor practice strike in its inception." Moreover, petitioner discharged the September 30 strikers shortly after the inception of the strike; hence even if the strike were regarded as economic in origin, the discharge of the strikers on October 5 constituted, under settled principles, a violation of the Act warranting the Board's remedial order with respect to these strikers. *National Labor Relations Board* v. *Remington Rand, Inc.*, 130 F. 2d 919, 927-928 (C.A. 2); *Cusano* v. *National Labor Relations Board*, 190 F. 2d 898, 902 (C.A. 3); *National Labor Relations Board* v. *Globe Wireless, Ltd.*, 193 F. 2d 748, 750 (C.A. 9); *National Labor Relations Board* v. *U. S. Cold Storage Corp.*, 203 F. 2d 924, 927 (C.A. 5), certiorari denied, 346 U.S. 818; *National Labor Relations Board* v. *McCatron*, 216 F. 2d 212, 215 (C.A. 9), certiorari denied, 348 U.S. 943.

CONCLUSION

The decision below is plainly correct and presents either a conflict of decisions nor any substantial issue warranting review. The petition for a writ of certiorari should be denied.

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v.

NATIONAL LABOR RELATIONS BOARD, *Respondent*

PETITION FOR REHEARING OF DENIAL OF PETITION FOR CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

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Petitioner Knight-Morley Corporation respectfully requests that the Court reconsider, and upon reconsideration grant, the petition for certiorari which it has, by its order of June 23, 1958, denied. In support of this petition for rehearing, petitioner respectfully shows the following:

1. The petition for certiorari heretofore filed in this case asserted, as the principal basis upon which the writ should be granted, the conflict between the position taken by the court below, on the one hand, and the Courts of Appeal for the Fifth and Seventh Circuits in *National Labor Relations Board* v. *American*

Manufacturing Co., 203 F.2d 212 (5th Cir., 1953) and *National Labor Relations Board* v. *Kohler Co.*, 220 F.2d 3 (7th Cir., 1955), on the other. The issue on which those courts are in disagreement is whether Section 502 of the Labor Management Relations Act* changed the usual rule—that it is not an unfair labor practice to discharge employees who leave their work, without striking, in order to put pressure on an employer to change their working conditions (see *C. G. Conn, Ltd.* v. *National Labor Relations Board*, 108 F.2d 390 (7th Cir., 1939); *International Union, U.A.W.A., A.F. of L., Local 232*, v. *Wisconsin Employment Relations Board*, 336 U.S. 245, 257)—and made the protection of Sections 7 and 8(a)(3) of the Act applicable to such employees if, without striking, they left their work in order to compel an employer to remedy a condition of employment which they believed abnormally dangerous. The Board itself had strongly urged in the *Kohler* case that Section 502 of the Act did *not* have that effect (Brief, Nos. 11272 and 11283, filed in the Court of Appeals for the Seventh Circuit, December 16, 1954, pp. 29-32) and the Court of Appeals for the Seventh Circuit agreed, not even adverting in its opinion to the argument by the Board or to the extended argument of the employees to the contrary. Yet, that is the position which in the present case the Board characterized as "illogical and unreasonable" (R. 497a), and which was expressly rejected by the court below (Pet. App., p. 8a).

2. Be that as it may, the emphasis in the petition on this conflict of decisions occupied so large a portion

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* Act of June 23, 1947, 61 Stat. 136, 162, U.S.C., Title 29, Sec. 143.

of the petition (pp. 15-22) that a further, also significant, holding of the court below was treated so summarily (pp. 22-23) as to warrant the belief that it may not really have been presented at all within the meaning of Rule 58(2) of this Court. Even on the assumption, to which we are reluctantly forced, that the conflict of decisions on the effect of Section 502 does not warrant review by this Court, we believe that this further point, not in reality presented in the petition, justifies a review by this Court.

3. Summarily stated, the issue is whether the Labor Management Relations Act, properly construed, permits a union to subvert the grievance machinery established by a collective bargaining contract. More specifically: the doctrine has been long and well established that an employer does not refuse to bargain in violation of the duty imposed by Section 8(a)(5) of the Act by insisting that grievances be handled in the manner provided in the grievance procedure of a contract, rather than made the subject of collective bargaining *dehors* the contract. *Timken Roller Bearing Co.* v. *National Labor Relations Board*, 161 F.2d 949 (6th Cir., 1947); *National Labor Relations Board* v. *Standard Oil Co.*, 196 F.2d 892 (6th Cir., 1952); *W. L. Mead, Inc.*, 113 N.L.R.B. 1040 (1955); *McDonnell Aircraft Corp.*, 109 N.L.R.B. 930 (1954); *Crown Zellenbach Corp.*, 95 N.L.R.B. 753 (1951); *Consolidated Aircraft Corp.*, 47 N.L.R.B. 694 (1943). As the court put it in the *Timken* case (at p. 955): "Though the duty to bargain is absolute, it may be channeled and directed by contractual agreement."

In the present case, the Board found petitioner's refusal to bargain concerning the discharge of the 17 buffers to be in violation of Section 8(a)(5), holding

that the *Timken* doctrine was inapplicable to the controversy over their discharge because the contract with the union had expired (R. 505a). The court below properly concluded that the expiration of the contract was irrelevant (Pet. App. A., p. 92), but nonetheless affirmed the decision of the Board, reached on the completely opposite premise, that the strike of September 30 (see Pet., pp. 10-11) was an unfair labor practice strike.

There can be no doubt that the discharge of the buffers was within the grievance machinery; it had, in fact, been partly processed through that machinery (R. 219a, 258a-259a), and that the Company's position was that it should remain there and not become a matter for collective bargaining. Nor can there be doubt that the strike was called to force the Company to change its position on this matter. The statement of the Board (R. 500a) that the strike was caused in part by the discharge of the buffers is no more than a misleading converse of the more accurate statement that the strike resulted because of the Company's proper insistence that its action with regard to those employees be handled as prescribed by the contract.

The significance of the decision, therefore, is this: Under the decision below, an employer who insists upon compliance by a union with the grievance machinery of the contract, as he properly may under the *Timken* case, is nonetheless at the mercy of the union, since a strike called to force the employer to change his position is an unfair labor practice strike. The *Timken* doctrine should not thus be put at the mercy of any union which is willing to strike to subvert it. The decision below, which sanctions that result, should be reviewed by this Court.

4. Concentration in the original petition on the conflicting applications of Section 502 by the several Courts of Appeal led counsel not only to the abbreviation of the matters just discussed, but also to the complete omission of a further aspect of the decision below which warrants review by this Court—the refusal by the court below to apply the six-months statute of limitations contained in Section 10(b) of the Act.

Neither the charge nor the amended charge in the present case (R. 4a, 8a), both of which were filed within six months after August 31, 1953, when the 17 buffers left their work, contain even a suggestion that the union—the charging party—believed that Section 502 of the Act was involved in the case in any way whatever. The original charge referred to the buffers only in connection with an allegation that petitioner had refused to arbitrate their discharge (R. 5a); the amended charge referred to them only in the statement that they had been discharged for "concerted activities in attempting to obtain correction of a faulty blower system" (R. 9a). Indeed, after investigation of these charges by the Board, the latter's original complaint not only made no reference to Section 502, but in fact made no mention of the buffers whatever (R. 12a-17a). It was not until July 30, 1954—eleven months after the events in issue—that the Board, by Paragraph XI of its amended complaint (R. 23a), for the first time in the entire proceeding, suggested that there was a "good faith belief" in the existence of "abnormally dangerous conditions of work." To further aggravate the disparity between the charges and the unfair labor practice of which petitioner has been found guilty, we can add that the excessive heat, which is the principal basis upon which the Board rested its conclusion

of abnormal danger (see R. 492a), was not even made a basis for complaint until midway in the hearing, when the expert witness for the Board, Dr. Frederick, substantially eliminated the complaint as to dust and lint by testifying that, except after years of exposure, they would result in nothing worse than a sore throat (R. 492a; 292a-293a).

Giving full recognition to the fact that a charge is not a pleading, and is not to be construed as such (*National Labor Relations Board* v. *Indiana & Michigan Electric Co.*, 318 U.S. 9, 18), the approach by the court below to the requirement that the charge must be filed within six months renders that requirement virtually meaningless. When neither the charge, nor the complaint originally issued upon the charge, even so much as hinted at dangerous working conditions or a possible application of Section 502, the court below is simply flying in the face of reality when it asserts (Pet. App. p. 6a) that petitioner, by the charge, "certainly had notice of the union's complaint as to conditions in the buffing room and, of course, had notice of the application of Section 502 to this situation."

CONCLUSION

Petitioner, a small business, is faced with a huge back-pay liability which may be so far beyond its financial capacity as to drive it to bankruptcy. It is in that position because for the first and only time, so far as we have been able to ascertain, Section 502 has been held to expand, in measurable degree, the application of Sections 7 and 8(a) of the Act—a position which had previously consistently been rejected by the courts, and, indeed, by the Board itself. Section 502, as construed by the court below, becomes a section

of the Act of major significance in all labor relations as a means by which to defeat grievance procedures established by contract, particularly when, as here, it may be availed of even as a patent afterthought, and injected into the proceeding many, many months after the employees leave their work. Because petitioner should not be required to suffer those drastic consequences if the decision below is erroneous; because the decision on the applicability of Section 502 is in conflict with decisions in other circuits; because the proper application of that section is a matter of importance in the administration of the Labor Management Relations Act; and because the decision is, in the other respects mentioned above, of significance in the interpretation of other aspects of the Act, the order of this Court denying certiorari warrants reconsideration, and upon reconsideration the granting of a writ of certiorari in this case.

Respectfully submitted,

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JULY 1958

I certify that this petition for rehearing is presented in good faith and not for delay and is restricted to substantial grounds available to petitioner not previously presented.

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CHARLES A. HORSKY